

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-2035
77-2135

United States Court of Appeals
FOR THE SECOND CIRCUIT

Docket No. 77-2035
77-2135

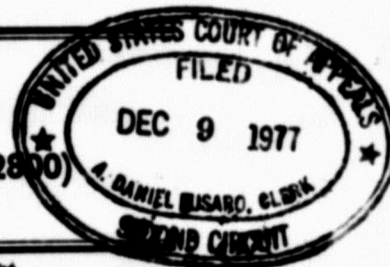
UNITED STATES *ex rel.* LOUIS WOLFISH, et al.,
Petitioners-Appellees,

—v.—

HONORABLE EDWARD LEVI, et al.,
Respondents-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX
Volume VII (Pages A-2401 to A-2800)



LEGAL AID SOCIETY
Criminal Appeals Bureau, FDSU
Attorney for Relators-Appellees
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ROBERT B. FISKE, JR.
United States Attorney
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Appellants
One St. Andrew's Plaza
New York, New York 10007

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A 2401

SAMPLE

U.S. Department of Justice
Bureau of Prisons

Attachment A
7400.5 D
7-7-75

NOTICE OF INSTITUTION DISCIPLINE COMMITTEE HEARING

DATE: _____

TO: _____ Reg. No.: _____

ALLEGED VIOLATION: _____

DATE OF OFFENSE: _____ Code No.: _____

You are being referred to the Institution Discipline Committee for the above charge.

The hearing will be held on: _____, at _____ A.M.,
at the following location : _____ P.M.,

You are entitled to have a full-time staff member represent you at the hearing. Please indicate below whether you desire to have a staff representative, and if so, his or her name.

I (do) _____ (do not) _____ wish to have a staff representative.

If so, the staff representative's name is: _____

You will also have the right to call witnesses at the hearing and to present documentary evidence in your behalf; provided, calling your witnesses will not jeopardize institutional safety. Names of witnesses you wish to call should be listed below. Briefly state what each proposed witness would be able to testify to:

NAME: _____, Can Testify to: _____

NAME: _____, Can Testify to: _____

NAME: _____, Can Testify to: _____

The Chairman of the Institution Discipline Committee will call those witnesses (Staff or Inmate) who are reasonably available, and who are determined by him to be necessary for an appreciation of the circumstances surrounding the charge. Repetitive witnesses need not be called. Unavailable witnesses may be asked to submit written statements.

If additional space is needed, use the reverse side of this form. Date, sign, and return this form to the Chairman of the Institution Discipline Committee.

DATE: _____ SIGNATURE: _____

BP-IS-114
9/74

A 2402

(SAMPLE - May Be Duplicated Locally)
U.S. Department of Justice
Bureau of Prisons

Attachment B
7400.5D
7-7-75

INMATE RIGHTS AT INSTITUTION DISCIPLINE COMMITTEE HEARING

As an inmate charged with a violation of institution rules or regulations referred to the Institution Discipline Committee for disposition, you have the following rights:

1. The right to have a written copy of the charge(s) against you at least 24 hours prior to appearing before the Institution Discipline Committee;
2. The right to have a full-time member of the staff who is reasonably available to represent you before the Institution Discipline Committee;
3. The right to call witnesses and present documentary evidence in your behalf, provided institutional safety would not be jeopardized;
4. The right to be present throughout the Institution Discipline Committee hearing except during Committee deliberations and except where institutional safety would be jeopardized;
5. The right to be advised of the Institution Discipline Committee's decision, the facts supporting the Committee's decision, except where institutional safety would be jeopardized, and the Committee's disposition in writing; and,
6. The right to appeal the decision of the Institution Discipline Committee by means of the Administrative Remedy Procedure to the Chief Executive Officer (Warden) within 30 days of notice of the Committee's decision and disposition.

I hereby acknowledge that I have been advised of the above rights afforded me at an Institution Discipline Committee hearing.

Signed: _____

(Typed or Printed Name)

(Register No.)

(Date)

BP-13-113
9/74

A 2403

U.S. Department of Justice
Bureau of Prisons

INMATE RIGHTS AT INSTITUTION DISCIPLINE COMMITTEE HEARING
(continued)

Attachment B
7400. 5D
7-7-75

Where an inmate has been advised of his rights afforded at an Institution Discipline Committee hearing, but refuses to sign the acknowledgement, the following should be completed.)

I have personally advised _____
(inmate's name and register no.)
if the above rights afforded him at an Institution Discipline Committee hearing; however, he has refused to sign the acknowledgment.

Signed: _____

(Employee's typed name)

(Date)

(INSTITUTION)
SPECIAL HOUSING UNIT RECORD SHEET

TEAM/CASEWORKER: _____ REGULAR QUARTERS: _____

INMATE NAME: _____ REG. NO: _____ CELL: _____
VIOLATION: _____ DATE: _____ TIME: _____
OR REASON: _____ REC'D: _____ REC'D: _____
ADMITTANCE: _____ DATE: _____ DATE: _____
AUTHORIZED: _____ REL: _____ REL: _____
PERTINENT
INFORMATION: _____

DATE	SHIFT	MEALS				EX	MEDICAL PA SIGN	COMMENTS-USE REVERSE SIDE IF REQUIRED	OIC SIGNATURE
		B	D	S	SH				
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								

BY: Pertinent Info: i.e., Epileptic; Diabetic; Suicidal; Assaultive; etc.
Meals/SH: Shower - Yes (Y); No (N); Refused (R)
Ex: Exercise: Enter Actual Time Period and Inside or Outside (i.e.,
9:30/10:00 IN) (2:00/2:30 OUT)
Medical: PA will sign the seg log each shift and the record sheet each time
the inmate is seen by him.
Comments: i.e., Conduct; Attitude, etc. Additional comments documented on
reverse side must include date, signature and title.
OIC Signature: OIC must sign all record sheets each shift. (OIC - Unit Officer)

A 2405

U.S. Department of Justice
Bureau of Prisons
INSTITUTION DISCIPLINE COMMITTEE REPORT

Attachment D, 7400.5D 7-7-75

Date: _____
Time: _____

NAME OF INMATE: _____

REG. NO.: _____

The inmate has been advised of his rights before this Committee. ☐ A copy of the advisement of rights form is attached.

This hearing is held to consider the Incident Report(s) dated: _____

The following persons appeared before the Committee: _____

Summary of statements made and information presented to the Committee:

Inmate admits the charge(s): ☐ Yes ☐ No.

The Committee finds that:

☐ The act was committed as charged

☐ The following act was committed: _____

☐

No prohibited act was committed.

(If this is the finding, this report and all related reports will be destroyed.)

Action Taken: _____

Reason for Action Taken: _____

☐ The inmate has been advised of the findings and orders of this Committee.

☐ The inmate has been advised of his right to appeal this action within 30 days to the Chief Executive Officer. ☐ A copy of this report has been given to the inmate.

(CHAIRMAN)

(MEMBER)

(MEMBER)

If there is insufficient room for any item, it should be continued on an attached sheet.)

DOJ-101-104

Attachment
7466.50
7-7-75

SPECIAL HOUSING REVIEW
(Institution)

TO : Central File
FROM : Adjustment Committee and/or Institution Discipline Committee
SUBJECT : _____ Review by: IDC _____ AC _____
(10 or 30 Day)

Inmate's Name _____ Reg. No. _____
Has been seen daily by Medical Staff: Yes _____ No _____ Has received prescribed weekly exercise: Yes _____ No _____
Admitted to Administrative Detention by: _____ Date: _____ Time: _____
Admitted to Disciplinary Segregation by: _____ Date: _____
Charge: _____
Incident Report Prepared by: _____ Date: _____ Incident Investigated by: _____
Date Inmate Appeared Before Adjustment Committee: _____ Date: _____
Charge & Disposition: _____
Does proper documentation and justification appear in the Central File (Incident Report, IDC Report, copies of 10 and 30 day review form)? Yes _____ No _____ If no, why not: _____
Subject case was reviewed on the above date by the Adjustment Committee/Institution Discipline Committee.

ACTION

- _____ Pending a hearing for violation of institution rules or regulations;
- _____ Pending an investigation of a possible violation of an institution rule, but where charges have yet to be lodged;
- _____ Pending investigation or trial for crimes committed in the institution;
- _____ An inmate requests or staff determines admission to the Administrative Detention area for his own protection;
- _____ An inmate pending transfer or in holdover status awaiting transfer;
- _____ Pending classification;
- _____ Control threat to safety and security of the institution. Remain in disciplinary segregation.

REMARKS:

Chairman

Member

Member

BP-IS-116
6/75

A 2406

A 2407

RX-VVV



THE LEGAL AID SOCIETY

Criminal Appeals Bureau
Federal Defender Services Unit
United States Court House
Foley Square — Room 509
New York, N. Y. 10007
(212) 732-2971

PHYLLIS SLOOT BAMBARGER, Attorney-in-Charge

October 18, 1976

HAROLD H. HEALY, JR.
Chairman of the Board

ROBERT B. MCKAY
President

ARCHIBALD R. MURPHY
Executive Director
& Attorney-in-Chief

WILLIAM E. HELLERSTEIN
Attorney-in-Charge
Criminal Appeals Bureau

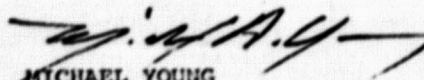
Louis Corsi, Esq.
Assistant United States Attorney
Southern District of New York
One St. Andrew's Plaza
Foley Square
New York, New York 10007

RE: United States ex rel. Wolfish v. Levi, 75 Civ. 6000

Dear Mr. Corsi:

In relation to the upcoming medical evaluation of MCC, I would appreciate having Dr. Joseph Seiller, 82675-158, currently confined at the Springfield Medical Center, brought to MCC so that he can be available to interviewed by the Court's experts. Because of Dr. Seiller's condition, all his prior transportation to and from Springfield has been by plane, and I assume that he would need air transportation on this occasion as well. If possible, I would appreciate having him arrive here by October 28, 1976. Please advise me as to whether you can arrange this informally, or whether you would prefer that I seek a Court order.

Very truly yours,

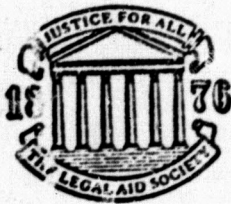

MICHAEL YOUNG
Associate Appellant Attorney

MY/val

RX-VVV

The purpose of the Society is to render legal aid in the City of New York to persons who are without adequate means to employ other counsel — By-laws of The Legal Aid Society.

A 2408



RX-WWW
THE LEGAL AID SOCIETY

Criminal Appeals Bureau
Federal Defender Services Unit
United States Court House
Foley Square — Room 509
New York, N. Y. 10007
(212) 732-2971

PHYLLIS SKLOOT BAMBERGER, Attorney-in-Charge

Rec'd 1/26

Taylor 1/28/77

HAROLD H. HEALY, JR.
Chairman of the Board

ROBERT B. MCKAY
President

ARCHIBALD R. MURRAY
Executive Director
& Attorney-in-Chief

WILLIAM E. HELLERSTEIN
Attorney-in-Charge
Criminal Appeals Bureau

January 26, 1977

Louis G. Corsi, Esq.
Assistant U.S. Attorney
Southern District of New York
One St. Andrew's Plaza
New York, New York 10007

Re: WOLFISH v. LEVI, 75 Civ. 6000

Dear Mr. Corsi:

Since the trial in this case is now less than one month away, I am hereby requesting that you keep Michael Gardner, Susan Braunig, and Joseph Seiller at MCC until the conclusion of that trial. The same request applies to John Parker and Hoby Darling in the protective custody unit, and will apply to Albert Victory and Glenn Miller, who have not yet arrived at the institution.

Very truly yours,

MICHAEL YOUNG
Attorney for Petitioners

MYbc

RX-WWW

The purpose of the Society is to render legal aid in the City of New York to persons who are without adequate means to employ other counsel. —By-laws of The Legal Aid Society.



T LEPHONE:
REG. OR 2-2971

PHYLIS S. GOOT BAMBERGER
ASSOCIATE ATTORNEY-IN-CHARGE

A 2409
THE LEGAL AID SOCIETY

CRIMINAL APPEALS BUREAU
FEDERAL DEFENDER SERVICES UNIT
UNITED STATES COURT HOUSE
FOLEY SQUARE
NEW YORK, N. Y. 10007
Room 509

WILLIAM E. HELLERSTEIN, ATTORNEY-IN-CHARGE

USA 336-475
(ED. 4-23-71)

RESPONDENT'S
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

XXX

May 10, 1976

Louis Corsi, Esq.
Assistant United States Attorney
Southern District of New York
One St. Andrew's Plaza
Foley Square
New York, New York 10007

Dear Lou:

After you advised me this morning that Albert Victory's writ had been satisfied because of a delay in his criminal proceeding, I spoke to Mr. Victory concerning his need and/or willingness to remain at MCC. Mr. Victory has advised me that, despite the delay in his criminal trial, he needs to remain at MCC so as to continue preparation of his defense and to interview and maintain contact with potential witnesses. Additionally, Mr. Victory is a named relator in Wolfish v. United States, 75 Civ.6000, which will in all likelihood proceed to a hearing sometime this summer. I therefore request that Mr. Victory be permitted to remain at MCC to assist us in preparing for this hearing. In the event that this is not possible, please advise me in advance of any plans to transfer Mr. Victory out of MCC.

Very truly yours,

Michael Young
MICHAEL YOUNG
Associate Appellate Counsel

MY/kls

The purpose of the Society is to render legal aid in the City of New York to persons who are without adequate means to employ other counsel.—By-laws of The Legal Aid Society.

RS-XXX

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 ----- x

4 UNITED STATES ex rel. WOLFISH,
5 et al., :

6 Petitioners, : 75 Civ. 6000
(MEF)

7 v. :

8 EDWARD LEVI, et al., :

9 Respondents. :

10 ----- x

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March 7, 1977,

10:40 A.M.

Deposition of Paul Silver taken by petitioners

pursuant to subpoena and notice dated February 18, 1977,

at the offices of Federal Defender Services Unit,

2 Lafayette Street, New York, N.Y., before Barbara

Boehm, a Notary Public of the State of New York.

--

1

2

2 Appeal nces:

3 LEGAL AID SOCIETY

 Federal Defender Services Unit

4 Attorneys for Petitioners

 Room 509

5 United States Courthouse

 Foley Square, New York, N.Y. 10007

6 Michael A. Young, Esq.,

 Michael B. Mushlin, Esq., of Counsel

7

 ROBERT B. FISKE, JR., ESQ.

8

 United States Attorney for the

 Southern District of New York

9

 Attorneys for Respondents

 One St. Andrews Plaza

10

 New York, N.Y. 10007

 Louis G. Corsi, Esq., of Counsel

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1 bbh

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2 IT IS HEREBY STIPULATED AND AGREED, by and
3 between counsel for the respective parties hereto, that
4 sealing, filing and certification are waived; and that
5 all objections, except as to form, are reserved to the
6 time of trial; and that this deposition may be signed
7 and sworn to before any notary public with the same
8 force and effect as if before a judge of this court.

9

10 MR. YOUNG: I think we should note for
11 the record that Mr. Silver with a representative of
12 the respondents' counsel and petitioners' counsel have
13 just toured the Metropolitan Correctional Center this
14 morning, and now we are going to ask Mr. Silver some
15 questions concerning that building.

16

17 P A U L S I L V E R, called as a witness, having
18 been duly sworn, testified as follows:

19 BY MR. YOUNG:

20 Q Let's get Mr. Silver's qualifications on
21 the record first. Would you describe who you are presently
22 employed with?

23 A I'm a partner of the firm of Gruzen & Partners,
24 architects and planners located in New York City.

25 Q Are they the architects that designed the

1 bbn Silver

4

2 Metropolitan Correctional Center?

3 A That's correct.

4 Q Have you been involved in the design or
5 construction of other prison facilities?

6 A Yes, I have.

7 Q Could you describe for the record what those
8 are?

9 A Facilities all over the United States and
10 overseas including New York, New Jersey, Maryland,
11 Virginia, Washington, D.C., Indiana, Pennsylvania,
12 Michigan, Minnesota, Wisconsin, Colorado, Nebraska,
13 New Mexico in the United States and just recent facili-
14 ties in the last three, four years.

15 Q I think it would have been easier which states
16 you haven't been involved in?

17 A I have done work in 20 states in the United
18 States. I should really say 20 jurisdictions.

19 Q Could you describe your training and educationa
20 background for us?

21 A I am a graduate of Pratt Institute School of
22 Architecture in 1960, and I have been employed as an
23 architect originally with Kelly & Gruzen up until 1972
24 when I became a partner of the firm that was subsequent
25 to Kelly & Gruzen called Gruzen & Partners. I have

1 bbh

Silver

5

2 had other employment during that time but not significant

3 Q Have you been involved in the design or planning
4 of any other federal institutions other than the
5 Metropolitan Correctional Center?

6 A I did a prototype competition for the
7 Bureau of Prisons back in 1963. It was called a
8 federal -- psychiatric facility for federal offenders
9 and it was a prototype design where there were five
10 architects asked to submit prototypes for a prison
11 at that time that was not yet built and the programs
12 were evolving and that was back in the early part of
13 1963.

14 Q Anything else?

15 A For the Federal Bureau of Prisons, no. Not
16 that I have been involved in.

17 Q Is Gruzen & Partners involved at this time
18 in any other federal construction for the Federal Bureau
19 or design?

20 A I think the work that we have in contract is
21 pretty much wound down. There may be a few items left in
22 construction on the courthouse at renovations but I
23 suspect since I am not involved in them myself personally
24 I suspect that we are in effect completed with all the
25 work that we are doing for GSA and the Bureau of Prisons.

1 bbh

Silver

5

2 Q Getting to the Metropolitan Correctional
3 Center itself, the first area that we visited this
4 morning was the rooftop area. Is that correct?

5 A Correct.

6 Q And I'd like you to tell me whether that
7 area is being used as you designed it to be used?

8 A Yes. I think substantially so at least the
9 equipment that's there. I had not seen anybody
10 physically exercising or engaging in any kind of program
11 of recreation, but on the basis of the equipment that
12 is there and the situation, the condition of the
13 construction and the fact that there does not appear
14 to have been any changes to introduce or delete any
15 equipment that was there originally, I would say it
16 looks as though it could be used the way it was planned.

17 Q Could you tell me whether there was ever any
18 planned use for the outer rooftop areas, the areas
19 beyond the central part that we walked through?

20 A There was no programmed use of those spaces.
21 When the building was substantially designed and ready
22 to go into construction there was some discussion that
23 there also be the possibility in years to come if it
24 was felt desirable to try to see whether some of that
25 space could be utilized by modifying the construction of

1 bhh

Silver

7

2 the roof, but it was not part of the original design,
3 and it was essentially what we felt was captured poten-
4 tial but not actually intended for use at that time.

5 Q Structurally is there any reason why those
6 areas could not be used at this time?

7 A No. Because the roof construction is identical
8 to the rest of the roof in terms of loading ability
9 to the best of my knowledge. I have to look at re-
10 inforcing drawings and ask our engineer to confirm that
11 but I don't see any basis for assuming that there
12 would have been a difference in the structural design.

13 Q At any time during the planning or construction
14 of the Metropolitan Correctional Center, were there
15 ever any plans to use part or all of the rooftop
16 area as a rooftop park, in order to have things other
17 than exercise equipment up there?

18 A To the best of my knowledge, no. I would
19 have to speak to some of the other people in my office
20 who were involved in the job in the early days like
21 Lloyd Fleischman and Peter Ashton who are both my partners
22 and ask them if they have any recollection or whether
23 there was any discussion of that sort but I can say from
24 my point of view and the knowledge I have of the job
25 no, there was no discussion of any kind of an outdoor

1 bbh

2 recreation type space which would have been a garden
3 or that type of a planted area.

4 Q Was there some reason why when the rooftop
5 area was built it was built without any windows or
6 openings whereby you could view the outside area?

7 MR. CORSI: Object to the form of the
8 question.

9 Q Well, does the rooftop area have any views --
10 is it possible from the rooftop area to view the outside
11 areas?

12 A There are no openings directly at eye line.
13 You can look through the grilles and see into the ad-
14 jacent space and the height of the wall beyond allows
15 you to see horizon, but our attitude towards that kind
16 of thing is that visual overkill is just as much a
17 problem in one direction as in another. If you are
18 followed around by a vista in every direction after
19 a while it becomes dull and uninteresting. First of all,
20 the wall surfaces would then have lost their smoothness
21 which allows it to be used for recreational activities
22 which are pretty much unpredictable and unplanned. You
23 use the for handball and use it to bounce a basketball
24 off and you can use it for handball.

25 You start putting openings in and you start

1 bbb

2 having restrictions on its usability so even in a
3 school building we would tend to do the same thing
4 since we would provide more than enough opportunity
5 to see the outdoors in other areas, so as an archi-
6 tectural design characteristic it is generally something
7 we are very concerned about not doing, which is every
8 time you turn around to be constantly bombarded by
9 the same set of visual experiences.

10 Q By the way, when you designed the rooftop
11 area did you design the metal grille work that goes
12 over the top of it, too?

13 A Yes. The bar joist plus the screening which
14 I notice was changed from the original 6 by 6 grid
15 which was a welded wire fabric to a chain linked type
16 construction.

17 Q I believe the parties have stipulated that
18 there is no central indoor gymnasium or central indoor
19 waiting room at the Metropolitan Correctional Center.
20 Could you tell us why when the building was being
21 designed and built none of those facilities were built?

22 MR. CORSI: Object to the form of the question.

23 MR. YOUNG: Why, what basis?

24 MR. CORSI: I don't think it is a properly
formal question.

1 bbh

Silver

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2 MR. YOUNG: We stipulated to the facts.

3 MR. CORSI: I am not objecting to the
4 stipulation. The way the question was asked, that's all.

5 MR. YOUNG: You are going to have to be more
6 explicit. I don't understand what form you are objecting
7 to.

8 MR. CORSI: I think it is leading. I think
9 you might ask him what considerations went into the
10 design of the recreation spaces.

11 MR. YOUNG: I am just trying to determine
12 why there wasn't a gym built in the institution. Is
13 that an acceptable question?

14 MR. CORSI: Yes.

15 Q Okay.

16 A To the best of my recollection the original
17 program contemplated both indoor and outdoor
18 recreation space, but the central indoor recreation
19 space was deleted on the presumption that the unit
20 management concept with the large recreation area as
21 the focus of the day space would provide for most of
22 the indoor recreation functions, and that the limited
23 movement potential would tend to make the gymnasium
24 a rather under-utilized structure, which is something
25 which frankly has been supported by other experiences

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1 bbh

Silver

11

2 we had. We get to have a very, very low utilization
3 in these full size gymnasiums.

4 Q When you said -- I'm sorry, you said the
5 minimum movement potential?

6 A The concept of the unit management system
7 was to provide a concentration of activities for a small
8 living unit thereby creating tremendous amount of
9 freedom within a rather limited geographic area rather
10 than the traditional arrangement which in effect
11 cellulizes all the little parts of the system which
12 is the individual's room, the day room, the dining,
13 the recreation, the vocational, the educational, the
14 counseling into little, fairly isolated components.

15 For the system to work it depends upon a
16 tremendous amount of cross traffic. Because of the
17 characteristic problems in administering any large
18 correctional facility the tendency of the administration
19 is to restrict movement. In doing that because of
20 the need to maintain security the inmate then finds
21 himself despite the fact that there are thousands of his
22 little things all over the institution for use they are
23 out of his geographic area unless he can work out the
24 intercommunication, the interconnection, the intertranspo
25 To get around that problem the unit management concept

1 bbh

2 was evolved which the Bureau was one of the first to
3 actually apply to the actual operations of buildings,
4 and what they in effect did was created a series
5 of smaller institutions somewhere in the range of 50-
6 man units providing the education, the recreation,
7 the dining, the inmate rooms, the day spaces, all inside
8 that unit, the theory being the principle that the option
9 available inside that free zone would provide for so
10 much activity that it would minimize the problem
11 of having to transport people and therefore the heavy
12 staff dependency upon transporting people which then tends
13 to reduce the availability of surfaces despite
14 the fact that the physical surfaces are there.

15 Now, the gymnasium like central dining are
16 kind of vestigial remains of an older concept of
17 operation. The dining room we gave up and we decided
18 that we would dine in this multipurpose activity
19 space, and the same thing developed around the gymnasium
20 because the question arose as to how would we move 48
21 people to recreation on a prescribed time basis if in
22 fact what we really wanted to do is provide as much
23 of that activity in the living area, so there is those
24 little glassed-in spaces where that television sits.
25 That was intended as a kind of an exercise work room, and

A 2422

1 bbh

Silver

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2 I notice now they are starting to put equipment in there
3 for that purpose.

4 There was a kind of a -- you might say a
5 slightly, it could either be used as a very noisy
6 room or a very quiet room. It was designed to go
7 either way because of the fact it was sealed off. You
8 could put heavy equipment in it. The height of the room
9 was one of the reasons we thought we could put everything
10 from ropes from the ceiling to climb up, chinning bars
11 on the walls because the windows were relatively high
12 up and things of that sort, and then all that could be
13 taken out and replaced by television and seating if in
14 fact they wanted to use it for quiet functions. The
15 idea was this kind of unit which provided for a broad
16 range of things that could be done in the unit, and
17 therefore reduced the movement which would have taken
18 the burden off the staff and the staff could spend less
19 time being traffic managers and more time in contact
20 with the inmate and I think that effectively is what's
21 happened because very few people in that institution
22 are in the traffic business on the management of inmate
23 flow.

24 If you go to a conventional facility something
25 like Attica or something like, well, any of the jails in

PAGE

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1 bbh

Silver

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2 The fact that two activities can be
3 conducted in a room that was intended for one activity
4 or two can be conducted simultaneously and appear to
5 be contradictory because one generates noise and the
6 other one demands quiet is something which I think
7 is a question as to how the occupants decide to utilize
8 the space.

9 I can't really say that I know whether it is
10 the administration or it is the inmates who have
11 established the practice of use of those spaces so I
12 really can't argue that it is good, bad or indifferent.
13 I have a bedroom and invite my friends over and we make
14 a lot of noise in the bedroom and my mother screams
15 and I don't have my mother living with me just in
16 case, that's misunderstood, but I'm reflecting back to as
17 a youngster on how I used my bedroom in a way that
18 was more than just a bedroom. It was a living room at
19 times. It was a game room at times. It was a model
20 shop at times. It was a war zone at times and my mother
21 thought it was a heap of junk.

22 So I can't really, but yet it was particularly
23 on the drawing that was in some architect's office it said
24 bedroom. It never said little boy's bedroom who is very
25 destructive.

1 bbh

Silver

16

2 Q Moving on to the dormitory, you observed the
3 dormitory area this morning and the furnishings contained
4 therein. How many people did you originally design each
5 one of those six dormitory rooms --

6 A The dormitories were originally intended
7 if I am not mistaken, 12 people. Let me double check.
8 Actually nine. It was nine units. Three, six, nine.

9 MR. YOUNG: Maybe we should introduce
10 this into evidence. Since we are now referring to it
11 I'll introduce Petitioners' Exhibit 1 for identification
12 which is --

13 MR. CORSI: Floor plan --

14 THE WITNESS: Want me to indicate what that is.
15 These are the unit housing modules and it shows the
16 four configurations of the typical unit module.

17 MR. YOUNG: While we are at it I will introduce
18 our second exhibit, Petitioners' Exhibit 2 for identi-
19 fication which is a longitudinal section of the
20 Metropolitan Correctional Center.

21 (Unit plan marked Petitioners' Exhibit 1
x 22 for identification.)

23 (Longitudinal section of the MCC marked
x 24 Petitioners' Exhibit 2 for identification.)

25 Q Mr. Silver, after referring to Petitioners'

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Silver

17

2 Exhibit 1 for identification how many people was each
of the dormitory rooms designed for?

4 A They were designed for nine individuals.

5 Q Also referring to Petitioners' Exhibit 1
6 for identification would you tell me the number of
7 toilets and urinals that were designed for each
8 dormitory bathroom?

9 A According to this, the drawing which is not
10 the actual construction document. This is an early design
11 sketch. It shows two water closets, two urinals and
12 two lavatories plus a shower.

13 Q You visited one of those bathrooms this
14 morning. Do you recall how many toilets and urinals
15 are in each of those bathrooms?

16 A There is one toilet and I think there was
17 one urinal and I don't remember the number of lavatories to tell you the truth right now.

18 Q Mr. Silver, you will recall during our
19 tour this morning that I pointed out the light switches
20 on the walls of the dormitory unit which controlled
21 individual lights on the ceiling. Could you tell me
22 the intent of putting those individual switches on the
23 wall?
24 wall?

25 A There was four switches on the wall if I am not

1 bbh

Silver

18

2 mistaken so that each switch operated a light which was
3 originally over each of the existing bunks if I am not
4 mistaken. There were four -- no. There were two
5 switches. Excuse me.

6 Q I think this is the wall you were looking
7 at that you saw the two on?

8 A Then it is over each bunk there was originally
9 a light. I am just trying to recollect. It's been
10 a long time.

11 Q What was the intention of putting those in-
12 dividual switches in?

13 A So that you could turn the light off or
14 on actually over the bed. It was a down light.
15 Essentially what we call a task oriented illumination
16 specifically to light up the bed below.

17 Q What has been the effect of the number of
18 beds that are now contained in the dormitory unit
19 on the use of those lights?

20 A The number of beds don't correspond to the
21 number of lights.

22 Q What did you originally design the dormitory
23 unit to be used as, what type of a housing unit?

24 A Originally each of the various types of housing
25 were defined more in terms of security levels than they

1 bbh

Silver

2 were in terms of specific program use. In other words,
3 we didn't say we will use the maximum security for guys
4 with \$500,000 or more bail, that kind of a thing, or
5 that we will put protective custody or segregation
6 in this area. It was really in terms of medium, minimum
7 and maximum. It was basically thought of as an area
8 which we would have the relatively low order security
9 intended to be towards the minimum end of the spectrum,
10 and I would say that another factor was that it was
11 the kind of a space we thought would probably be used
12 where we had large turnovers, the kind of people who would
13 go in and out rather quickly.

14 There was discussion I remember at one time
15 of putting immigration cases up in that area. I don't
16 know if it's ever been used that way because the thought
17 was that these people tend to be less of a custody
18 problem and less of a problem of assault and aggression
19 on one another.

20 Q Mr. Silver, when we were in, I guess, each
21 of the units today we observed television sets in the
22 common areas. Did you intend that there should be
23 television sets in the common areas?

24 A Yes. That was originally intended that
25 there would be television. In fact, we were originally

1 bhh

Silver

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2 thinking of two TV's on each area so that we could
3 allow for a variety of program choice.

4 Q That would be two in the same commons
5 room you mean?

6 A No. Two in different areas. One could be
7 somewhere else. As it ended up it was in this quiet
8 little side room. It could have been downstairs. We
9 didn't really specify except near the end I think
10 there is an antenna connection in that room so it
11 was eventually decided that those were the two
12 locations.

13 Q This morning we visited the balcony area, I
14 believe it was in the dormitory unit.

15 A Right.

16 Q What did you intend that balcony area to
17 be used as?

18 A The portion which is behind the walls which
19 come up from downstairs was intended as a classroom
20 area to be screened off with movable screens. It was
21 almost in a kind of landscape furnishing type of
22 arrangement where the space was rather fluid and was
23 closed off rather than a permanent wall. It would be
24 closed off with screens so it could be made smaller or
25 larger as the use demanded.

1 bbh

Silver

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2 Q Did you anticipate any problems with noise
3 concerning that balcony area?

4 A The areas are carpeted and it is fairly
5 secluded behind the rest of the forms, structural
6 elements that make up the upper floor and there was
7 screens which ran, oh, I'd say seven feet high so
8 the idea was that this would baffle off most of the
9 background noise. Very much the way landscape furnish-
10 ings do that in an office plan.

11 Q Did you ever envision that the balcony areas
12 would be used or did you design them to be used
13 as the housing area?

14 A No. The housing was restricted to the pods.

15 Q Would housing people in the balcony areas
16 create any problems in terms of design?

17 A Yes. It would affect the use of the space,
18 there is no question about it. It would limit the
19 possibility of utilizing the space for other functions
20 for which it was programmed like educational functions.
21 It is very hard to conduct a class when somebody wants to
22 sleep.

23 Q In terms of the needs of people housed there,
24 do the balcony areas contain facilities that would
25 accommodate residential housing?

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Silver

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2 A You are talking about things like toilets?

3 No, there are no toilets up there so obviously

4 it was not intended that way. The pod is the unit

5 module we were talking about before. It is the housing

6 unit. Another name for the housing unit.

7 MR. CORSI: You mean the, in the typical

8 unit, a 48-room unit would be a pod?

9 THE WITNESS: No. The pod would be the

10 little wing that contains the eight rooms or the nine

11 dormitory bed unit.

12 MR. MUSHLIN: Each unit at the MCC, each

13 functional living unit has six pods?

14 THE WITNESS: That's correct.

15 Q Mr. Silver, when you designed Metropolitan

16 Correctional Center did you envision religious

17 services being held in the institution?

18 A Yes. That was discussed and again it was
19 going to be set up very much like we have done in other

20 institutions where the services are conducted in the

21 housing areas, in the units themselves. We felt that

22 the classroom area upstairs for one, and if there was

23 enough services it could even be held in some little,

24 small alcoves that go with the housing units, the

25 pods themselves, so that it would almost be like bringin'

PAGE

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1 bbb

Silver

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2 but it was a kind of a thing which we felt because
3 of the smallness of the numbers, like nine or ten
4 people, that we would not have a problem being able to
5 isolate a space that would easily house that many
6 people.

7 Q Mr. Silver, you designed, I believe, two
8 visiting rooms for each of the main residential
9 floors at MCC. Did you envision any amounts of
10 use or was this to be left up to the administration
11 or just what plans went into that? Why did you choose
12 that size of room and that location?

13 A That's a very complex question because,
14 first of all, there is no empirical data available on
15 visiting in a kind of configuration that was being
16 conceived here which was a very, very broad number
17 of hours. A fairly available facility with a high
18 turnover in population which demands a great deal of
19 visiting, so we were not fortunate enough to have four
20 or five years of operational data from which to make our
21 conclusions so we had to make what we considered
22 was the best judgment we could, the best professional
23 judgment we could based upon what experience we had.

24 The number of hours that -- we discussed
25 the number of hours of visiting which actually

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Silver

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2 are longer than the number of hours that we ended
3 up, rather we designed for, and the volume of people,
4 of course, therefore, is higher. Also the concentration
5 are something which we were not really as aware of.

6 In other words, the visitors tend to come in
7 much thicker bundles. When you are talking about
8 facilities like out in Rikers Island you get a different
9 kind of visiting pattern. People tend to come on out
10 in much more consistent dribbles because they have
11 to depend upon bus services and other kinds of trans-
12 portation to take them into the island which is more
13 clockable.

14 You know when the bus is coming, you know
15 the size of the bus and if you can't get all on that
16 bus you wait for the next one which is 20 minutes later.
17 That gives them 20 minutes to process people and get
18 them. Here with the excellent transportation right
19 down here you can get at 11 o'clock on a Sunday morning
20 or Saturday, you can get 75 percent of your entire
21 visiting load appearing all at once so there was
22 simply no empirical data from which to draw a conclusion
23 so we had to make the best judgment we had available
24 to us.

25 This kind of facility just didn't exist with

2 this modus operandi. There is so much more, the
3 visiting space has so much more potential for being
4 a pleasant environment than something out in Rikers
5 for example, that it does not discourage as many people.
6 Secondly, its availability because of its location
7 makes it much more attractive than going over to Rikers.

8 Those factors were something which we
9 couldn't put any hard numbers on. We now have a much
10 better feeling as to what it would be if we had
11 to do a thing like this again. We would probably
12 have provided, I would say, somewhere in the area
13 of twice as much visiting space than we actually
14 ended up. The administration of course has several
15 options in handling this kind of a thing. They could
16 either rust the visiting hours or they could require
17 that people call in for a visiting time and scheduled
18 visiting to spread it out but they don't do that and
19 that's their decision to make, but it does in effect
20 represent a space which is smaller than the volume
21 that actually is generated and it does get really
22 cramped after a while. There is no question about it.

23 Q Are you aware of the number of hours that
24 each of these rooms is open each day?

25 A I really can't remember which now but I

1 bhh

Silver

2 went through this whole thing about a year ago when
3 we began to be very much concerned about it because
4 I would go through tours and I would see the place
5 literally packed with visitors particularly downstairs
6 waiting to go upstairs and upstairs was already filled.
7 And I remember that the hours were pretty broad
8 at that time. They ended somewhere around 4 o'clock
9 if I am not mistaken and they started pretty early in
10 the morning. It was like about six hours of visiting,
11 which was for most of these institutions, was pretty
12 wide.

13 I don't know what it is right now so I
14 really can't say that I can speak to the current
15 operation at this particular moment, but at that
16 particular time there was a rather extended visiting
17 period and it did generate tremendous crowds.

18 Q You spoke about the difference between the
19 hours that you envisioned the visiting rooms being
20 opened and the hours that they actually were at some
21 point back a couple of answers ago. What hours did you
22 envision those rooms would be opened?

23 A Generally those kind of facilities operate
24 on maybe three hours of visiting a day, these type
25 of facilities. County and city jails operate

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Silver

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2 generally on three, maybe four hours of visiting a day,
3 and there is usually restrictions on the length of
4 visit. You have to be in and out by a certain amount
5 of time. It is much more clockable in those environments
6 because contact visiting is simply not very common in
7 most jails. It is much more common in correctional
8 facilities but in detention environments it is a fairly
9 rare thing except that now it is becoming much more
10 the modus operandi and something which is much more
11 desirable for a lot of reasons, but it also makes
12 regulation of time a little more difficult so it is
13 better to say, "All right, you can visit so long
14 as the visiting room is open," and if a person wants
15 to spend three hours, he can technically spend three
16 hours, or he can spend six hours if he wants to spend
17 six hours, which is not quite the way it is old,
18 in the non-contact where you walked into a booth,
19 and after a certain amount of time they just cut your
20 telephone off.

21 Q On most of the floors I believe that
22 respondents will probably be willing to stipulate
23 when the visitors come up they exit the elevator
24 and they are in a lobbyway which is separated from
25 the visiting room by a door and there is an officer

1 bbh

Silver

29

2 on the other side of the door and when the officer
3 sees the person standing outside he phones downstairs
4 to get that door unlocked so the visitor can enter.

5 A Right.

6 Q On the third floor there is a somewhat
7 different design. This is the protective custody unit
8 I am referring to now. And you will recall we visited the
9 visiting room this morning. How did you envision --
10 was there to be a guard stationed by that visiting
11 room or how did you envision that that visiting room
12 would operate given that there wasn't the central
13 sally port that you had in most of the areas?

14 A When you come off the elevator, that space
15 is a sally port because the door, the elevator and
16 the door to the room is supposedly electronically
17 interlocked. I don't know if it is wired that way.
18 I didn't go test it myself. I will assume it's been
19 constructed the way it was specified. When you come
20 out of the elevator the door closes. Then somebody
21 who is in that visiting room can let you in only after
22 that elevator door is closed so that in effect you have
23 created a sally port with that space the same way
24 the sally port exists on typical housing floors and
25 opens up onto the waiting room rather than the

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Silver

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2 visiting areas. Here you go directly into the
3 visiting area without passing into a waiting room, and
4 the reason there is that on the typical floor you have
5 two options. You can go either right or left, and the
6 control was considerably more subtle because you had 96 people
7 being served by one officer. Here you have the pro-
8 tective custody area which has considerably low popula-
9 tion. I think the total number of rooms in that entire
10 area is 24 so you are talking about a quarter of the
11 number of inmates so the sophisticated separation
12 which was intended to reduce the chance of somebody
13 walking away wasn't really required.

14 Q Did you envision a guard stationed in the
15 visiting room or how was the guard to know when there
16 was a person outside the door?

17 A The assumption would be that while visiting
18 was taking place someone was either in the room or
19 had visual observation of the entire room and could
20 see anybody coming upstairs as well as all the people
21 in the room. That would be the format of operation.

22 One of the things we wanted to do was avoid
23 what we call fixed station design where a guy sits
24 in a position and he becomes as I said before a traffic
25 manager. It is our feeling that when the officer moves

1 bhh

Silver

2 around and does not have a fixed location he gets
3 to know the inmates, he gets involved and he has much
4 better opportunity for developing some rapport. Put
5 him in a glass box or behind a desk and you create
6 the kind of artificial barrier that contributes to
7 this separation, so we never give them a kind of a
8 static spot. The assumption is he is moving about in
9 that area, and he goes and opens this door, that
10 door and in the process he is moving through and he is
11 being stopped by inmates who say "I want this done.
12 Can you do this for me. I'd like this. Can you do
13 that."

14 In other words, he is appearing all over
15 the place. Tends to see what is going on, can
16 probably intercede when he sees something by passing
17 it on the way over to something else than he can
18 sitting in some static position 50 feet away from the
19 remote corner of the space where anything can be
20 happening.

21 Q When you designed the Metropolitan
22 Correctional Center where did you intend that
23 attorney visiting should take place?

24 A In the same area where visiting but within
25 different hours. At least our assumption was that they

1 bhh

Silver

32

2 would provide for special hours either on the tail
3 end or front end of the regular visiting period.

4 Q At any time during the design phase or
5 construction phase was it ever contemplated that
6 you would provide private attorney visiting rooms?

7 A I'm trying to remember. I don't remember
8 that. I'd have to ask Lloyd Fleischman. That's a
9 question which I can go back to Lloyd who was involved
10 in the programming phase and Lloyd would know that.
11 I could ask Lloyd that question. He would remember
12 whether or not there was. By the time the plans
13 were developed which got involved in the project
14 there was no private visiting areas for that function.

15 Q We visited the 5 south module. What was
16 that originally designed to serve as? :

17 A You are talking about the one that's now
18 segregation?

19 Q No, 5 south. It is the women's unit.

20 A Oh, the women's unit. Was it designed
21 as a women's unit?

22 Q Was it designed for some specific purpose?

23 A No. As I said the basic design revolved
24 around the principle that we had various levels
25 of security and that there were no decisions as to

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Silver

2 whether it was male or female use or whether it was
3 for people who were on writs or whether it was for
4 people who were on immigration cases. It was supposedly
5 administrative freedom that was being planned for
6 so that they would have a wide variety of housing
7 types and could use them as they felt was appropriate
8 for the security level that was required by the inmate.
9 Not by some prescribed idea that this was a women's
10 area as though there was something generically different
11 between women and men as it affects housing for in-
12 carceration.

13 Q I believe the respondents will stipulate
14 that the 5 south module is the only module in the
15 institution that does not have toilets in the individual
16 residential areas but rather has toilets at the end
17 of the hallways.

18 A Okay. Yes. Let me point that out. That
19 was a minimum security unit. The definition of
20 that was minimum security. That's why the toilets
21 were taken out of the rooms. The idea was that the
22 inmates in those areas would be given a key and would
23 be able to go to the toilet on their own and they
24 would not have to be, so to speak, treated as though
25 the room were really a combination of a living area

1 bbh

Silver

34

2 and a toilet area. I for one much prefer a situation
3 in which the inmate room does not have accessories
4 which are in fact jail accessories, combination toilets
5 or even a porcelain, enamel toilet and sink is something
6 which is not normative and if the person can in fact
7 be allowed the option I would much prefer that they
8 have an environment where they leave the room and
9 go to a toilet just like you would in a residence
10 and not have the can sitting in the room with them.

11 Q You testified a few minutes ago that to your
12 knowledge that wasn't designated for a particular purpose

13 A No. It was a category of security. Again,
14 if you look at the original pod design we were
15 looking at before you will see there were four
16 categories of rooms ranging from the dormitory which
17 I would regard as the most minimum to the minimum
18 without the toilet in the room to a medium to a
19 maximum and the maximum was actually never built
20 the way it was shown because we changed the design
21 in the last few months of the project when we convinced
22 the Bureau that the salary port that they were going
23 to provide in each of each room really could be done
24 without and that if a guy was that serious a problem
25 that he needed to be separated from the rest he would

1 bbh

Silver

2 probably just be locked in there and two men would go
3 and get him if they had to and the sally port
4 didn't provide any greater degree of security.

5 Q Referring at this point to Petitioners'

6 Exhibit 1 for identification, the only floor section

7 that is shown on here that has the bathrooms at

8 the end of the hallways as opposed to the end of the

9 room is this one.

10 I assume then this is the design for the

11 5 south module.

12 A Right.

13 Q And it is indicated under their CTC module.

14 Do you know what that notation means or could you state?

15 A I am trying to remember.

16 Q I believe respondents will probably stipulate

17 if it will help to refresh your recollection that CTC

18 stands for Community Treatment Center.

19 A Right. Okay. Yes. There was again for

20 the individual, there was a time when the program talked

21 about having a work release or an education release

22 group in the facility, and that those were the minimum

23 security types and therefore they were going to go into

24 this module which was a minimum security module. They

25 have all been taken out but the original idea was that

1 bbh Silver
2 these modules had discrete categories of security
3 and that the CTC unit which was the corrections unit
4 was really the guys who were on educational and work
5 release and were considered the lowest order of
6 security that one would house in a facility of this
7 sort and they would simply go out to work or out to
8 school and come back in the evening.

9 (Recess)

10 BY MR. YOUNG:

11 Q Mr. Silver, we also visited the portion
12 of the hospital unit that's being used to house the
13 honor unit this morning. Was that section originally
14 designed as a housing unit?

15 A No. It was a medical section. Well, the
16 word housing maybe you ought to qualify. It was
17 medical housing. It was housing for infirmed. Whether
18 it was physical or mental.

19 Q As an architect do you see any problems
20 with housing people in that unit other than medical
21 people, medical patients?

22 A If they are mixed indiscriminately together
23 so you have people with contagious disease in the
24 same spaced as people that are healthy you have the
25 problem of spreading contagion. The unit is like

1 bhh

2 any housing unit that was intended to be outfitted
3 for medical use. It fits into the same planned
4 shape, so to speak, the same plan configuration as
5 a fairly typical housing area. The rooms are somewhat
6 larger though because of the fact that they are intended
7 for medical function and they have to be able to get
8 onto a bed from both sides in a hospital room.

9 Q You said that it fits the same plan
10 as a fairly typical housing unit. Most of the modules
11 at MCC or all the modules contain commons area.
12 I think we have stipulated to the size of it but
13 I can't recall the exact dimensions at this point.
14 Is there any comparable to that in the hospital unit?

15 A No. Because there was never any intention
16 of that being used as a standard, let's use the
17 word, living unit.

18 Q Mr. Silver, when you were designing
19 the Metropolitan Correctional Center did you have
20 any information as to the intended length of stay
21 or average length of stay of the people that would
22 be housed there?

23 A We had the background of the length of
24 stays that were current at that particular time
25 for federal detainees, and the number of days, of

1 bbh

Silver

2 course varied, but we were talking about anywhere
3 from 30 to 90 days for a very common average. Hopefully
4 they were thinking of improving some of the
5 court procedures which would reduce that. There are
6 many counties which have considerably shorter stays.
7 Minneapolis, St. Paul, has about 10 days is their average
8 length of stay and it is feasible depending upon
9 how the modus operandi of the courts are.

10 Q Did you ever envision that people might
11 be designated to serve sentences at the Metropolitan
12 Correctional Center?

13 A Yes. That was the idea, this particular
14 module, the TCT module where the people who were
15 going to be on correctional programs.

16 MR. CORSI: Referring to Petitioners'
17 Exhibit 1.

18 A That's one of the advantages, the unit
19 management concept really had. It is possible to
20 utilize the module for a strictly correctional
21 function in a detention environment without mingling
22 of population and therefore separating out the two
23 and maintaining it, what is often the legal requirement
24 that the population not be interspersed, the people
25 serving sentences not be housed with people who are

2 on detention. The basic configuration of the unit
3 is kind of a mini institution, allowed us to keep
4 that separation, maintain the purity of the two
5 functions, and so it would be theoretically possible
6 to have used any unit for corrections or any unit
7 for detention without specifying which unit.

8 (Discussion off the record.)

9 BY MR. MUSHLIN:

10 Q On the living unit concept is it correct
11 that that was part of the architectural program
12 the Federal Bureau developed and then gave to you?

13 A That's right. The unit management concept
14 which underlies this whole notation of how the
15 institution would be developed, series of small fairly
16 self-contained mini institutions of approximately
17 48 based upon the idea of the unit management where
18 each unit would be managed as a separate operation,
19 not as an institutionwide kind of thing.

20 Q And that was developed, that concept was
21 developed by the Federal Bureau?

22 A That's correct.

23 Q Not by Gruzen & Associates?

24 A We developed the architectural extrusion
25 that was a response to that particular programmatic

1 bbh

Silver

2 requirement.

3 Q When you developed this design you talked
4 about contemplated length of stay of 60 days to 90
5 days. I wanted to ask you if you were dealing not
6 with this, not with the detention population but
7 if you were dealing in the design of a correctional
8 institution for people who are housed significantly
9 longer lengths of stays, years, would you use such
10 a design?

11 A Yes, but I would introduce a lot more things
12 into the unit. For example, I would begin to introduce
13 two concepts. One would be the idea of providing
14 educational, substantial educational, vocational
15 and industrial activities in conjunction with the
16 unit so that the inmate would have his education,
17 vocational, industrial. I would put a lot more
18 emphasis on outdoor and indoor recreation facilities
19 as part of the inmate area. In other words, I would
20 provide an outdoor space with each unit. I would provide
21 a recreational space which might be shared by two
22 units, almost a mini gym so as one group leaves the
23 other group enters. I would also organize it
24 in such a way I might be able to get two or three
25 units to be brought together if I find securitywise

Silver

1 bbh

2 I can run the system as maybe a series of maybe
3 ones and twos and threes so that I would have that
4 built in flexibility. This kind of an operation you
5 are stuck with one floor consisting of two units and
6 you cannot expand it Beyond two and you have no
7 potential for industrial or vocational training. We
8 are currently doing facilities which incorporate all
9 of these things I just outlined.

10 Q For correction?

11 A For the State of Minnesota. We are doing
12 the new high security facility for the State of
13 Minnesota which is essentially made out of seven small
14 institutions of 48 but they are all run on a string,
15 a spine and it is possible to combine two or three
16 or four or seven. It is possible to open the whole
17 place up and say "All right everybody, you are free
18 to run around," or it is possible to lop off one and
19 then operate six as a unit or lop off two, two and two,
20 and you are left with one so the varieties
21 tremendous, but basically each one consists of a
22 housing area, and sitting on top of that housing
23 area is a school and an industrial plant which runs
24 over the entire group of seven and they just go
25 upstairs and they can go sideways into the next unit

2 if it is combined.

3 Q Do they have an outdoor area that they can
4 go to?

5 A Yes. Each unit of 48 has an outside area
6 of its own, has a small recreation area for weight
7 lifting and boxing and punching bags and things like
8 that as well as a TV viewing area and a quiet area
9 and a counseling area and interview rooms and visiting.
10 Each one has its own visiting complex as well, and
11 it carries through many of the concepts that we
12 developed here in terms of the architectural implication
13 but it gives a lot more space.

14 There is a considerably larger amount of
15 space per inmate. The unit is much larger because
16 of the long term, and these are for higher security,
17 the so-called tough nuts of the Minnesota system
18 who will be housed here, and in addition to that
19 all of that then creates a big outdoor space which
20 is then available for really large recreational
21 functions and then there are some spaces which are
22 created specifically on the presumption it may be
23 possible in time to relax some of the operations
24 and create two or three unit groupings instead of
25 one and those groups probably would be allowed to

Silver

1 bbb

2 move a little more freely through the institution
3 and there is a big central commissary which is kind
4 of like a snack shop kind of thing where visitors
5 can come with inmates and sit outside on a patio
6 and overlook the whole institution, that kind of a thing
7 but we won't, I don't believe that we have any reason
8 to feel that the basic concept is not still very workable
9 It is one of those things which involves a kind
10 of trade of decision which I pointed out before
11 when we talked about the conventional or traditional
12 design which is series of separate organs, each
13 one highly specialized, and you have to then
14 transport, so to speak, nutrients from one organ to
15 another in order to keep the whole organism alive.

16 That then means you have to have a lot
17 of traffic control. What happens in these institutions
18 in the reality of operation is that they tend to turn
19 the place very secure and even if it is supposed
20 to be run on a lower level of security it becomes
21 intensely preoccupied with the security because
22 all the officers can concern themselves about is
23 how can I recalculate the flow of people from one
24 place to another and the end result is that while
25 they have the appearance of a great deal of space

1 bhh

Silver

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2 and a great deal of options and a variety of things
3 to do they don't. The reality is they end up being
4 locked in their rooms for extended periods of time
5 and when they get out of their room all they have
6 available to them is a corridor outside their cell
7 and when they get outside that corridor in order to
8 be able to go to a day room they have to go through
9 some area and so in order to get any kind of the
10 use of the building so it is an illusory freedom within
11 the limits of the institution.

12 This is an attempt to say that by making the
13 unit smaller and making it more residential in scale
14 you are giving the inmate a great variety of things
15 to do, a great degree of options to do, choices
16 which he can make himself which takes the staff out
17 of the decision making process.

18 MR. CORSI: Mr. Silver, when you say
19 this, what are you referring to just to clarify?

20 THE WITNESS: This institution or this
21 concept of unit management.

22 Q You were involved in the design of the
23 Leesburg facility in New Jersey?

24 A Yes.

25 Q That is a correctional facility?

1 bbh

2 A That's a correctional facility.

3 O Wasn't part of the design concept in that
4 facility that a person would be, that certain movement
5 would be forced, in other words, that it was designed in
6 a way that people would be getting a variety of en-
7 vironmental experiences by going outdoors?

8 A I wouldn't do Leesburg again that way. Leesburg
9 was a tremendous step forward from the more traditional
10 design. The very fact that the building has so much
11 outdoors and so much perception of the outdoors
12 and so much I would say of a sense of space and light
13 and air, I think that was the major contribution that
14 Leesburg made. Leesburg pointed out that you don't
15 have to do something which looks like a prison
16 and has all the prison hardware and the prison
17 features. That you could in fact do something which
18 is much more normative.

19 You could use a lot of glass. You could
20 use a lot of open space. You could have outdoor
21 areas. You could have rooms with sizable windows,
22 all of this was possible, and that essentially was
23 the first opportunity to strike down a traditional
24 vocabulary. But in many ways the institution except
25 for maybe the concept of the interior courtyard

1 bbh

Silver

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2 with the housing elements has very many traditional
3 features to it. It has some of the shortcomings
4 that go with it. For example, if the State of New
5 Jersey had to do it over again they would never have
6 a central dining hall. There is just no end of
7 difficulties. They would much prefer to feed the inmate:
8 in the housing area. It gives them much more controllabl
9 environment and it also from the point of view from
10 the inmates it is a nicer place to eat than in
11 a great hall filled with noise and din of banging
12 plates and screaming voices in a space that you can
13 never really acoustically control and still make it
14 endure the hard use it gets.

15 Things like the separation of the industry
16 packed all over in one area. The movement potential
17 inside that institution is not a negative feature as
18 much as the fact that I think there is not enough
19 activity provided in the housing area. I don't mind
20 so much that the industry is off in one area. This
21 is a medium security facility, and hopefully a lot
22 more inmates are free to mingle. We are not talking
23 about having discrete little groups. We are concerned
24 about intermingling. We are saying all right, we can
25 tolerate in this level of security a lot more interaction

2 between inmates, but the problem still is that the
3 individual in that housing area has very little
4 to do once he is confined to the housing area. Once
5 the time comes during the day where they say all
6 right everybody return to their housing unit and we close
7 the front door there is very little left to do. You
8 are either going to your room or you sit in the day
9 room and watch television or you sit outside, but you
10 can't conduct classes there. You can't conduct any
11 kind of a vocational educational program. You have
12 no closed circuit TV for educational uses.
13 You don't have counseling spaces. All the
14 things that would make for a small institution
15 eventually are missing from there so you end up with
16 a housing unit that's too large, an 84-man unit I think
17 is much too big and I would never do anything that large
18 again. It is too big because the officer gets very
19 little time to be familiar with the names of all the
20 inmates even though 84 may sound like a relatively
21 small number to remember 84 names. Still when you
22 have five guys who are working that particular housing
23 unit it is pretty difficult. Besides that the
24 walking distance from one end to the other tends to
25 discourage the officer who is in a stationary position

1 bhh

Silver

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2 by the way, from going to the very far end and just
3 dropping by so my feeling is that we learned a lot
4 from that. That facility was done ten years ago.
5 Actually it was done, we started that facility
6 in 1962 so that makes it 15 years since that facility
7 was on the drawing boards and it is ten years
8 since it was opened and I surely would not do that
9 again, that kind of a design, but it was a tremendous
10 lesson and it broke down an enormous number of
11 barriers because if you go to Leesburg the first
12 thing that strikes people is the enormous amount
13 of glass and that's conventional plate glass. The
14 place is absolutely loaded with conventional glass
15 and you say my God, isn't this place going to be
16 busted up. The fact of the matter is no. The
17 very fragileness of the environment seems to encourage
18 the inmates to respect it more and they know from there
19 it is to Trenton or to a much more secure facility,
20 so it works well as part of a facility in a system
21 and I believe that these facilities have to be seen
22 as part of a system and not in isolation. If you look
23 at a facility and you try to design it in isolation
24 from its role in the system you end up with something
25 which may not make any sense at all so we want to know

1 bbh

Silver

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2 where it fits in the system, what it is supposed to
3 do as a discrete function. And Leesburg had a very
4 discrete function. It was a medium security for the more
5 attractable inmate population who were not management
6 problems, who were going to be treated with some
7 degree of humanity and dignity, and who needed an
8 environment where they could find the opportunity
9 to take positive steps towards rehabilitation if it
10 was available to them, and as I said the only trouble
11 is that it is still designed with too much emphasis
12 on security because it's got the old fashioned what
13 we call zone design.

14 There is a housing zone. There is an education
15 zone. There is a visiting zone. There is an industrial
16 zone. That means you got to move from one zone to
17 another and it has to be controlled. That means
18 that the staff will then decide at a certain time
19 during the day to cut that access off so you can't
20 go to industry or education and work it at a 24-hour
21 basis or work it at night and the kind of industries
22 they have to provide is industries which can use labor
23 for an eight-hour period and shut down which is not
24 necessarily the programmatic freedom that they really
25 would be far better off. When you talk about the

1 bbh

Silver

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2 kind of flexibility I was talking about before you
3 can have seven industrial units and one can operate
4 24 hours making transistorized radios because guys
5 are interested in doing that kind of thing. They want
6 to learn about electronics so you have got this group
7 turning out all this stuff and learning it and you
8 don't have to worry about security because the guys
9 are just going upstairs.

10 Q Have you been involved in the design of any
11 other detention facilities since the MCC?

12 A Sure.

13 MR. CORSI: Can we break.

14 (Recess)

15 MR. MUSHLIN: I don't think there is anything-

16 MR. YOUNG: You have no further questions?

17 MR. MUSHLIN: Why don't we get the thing
18 we were talking about at the end about the functional
19 living unit thing.

20 Q You were just saying when Mr. Corsi, when
21 we took the recess right now we were talking about
22 the modular design and you were saying it involves
23 a trade-off.

24 A Yes.

25 Q Could you explain?

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Silver

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2 A My feeling is that every designed decision
3 involves some trade-offs between options, and my feeling
4 is that in all things considered that the unit manager
5 or the modular concept surely provides for so many
6 more benefits than it does detract from the facilities
7 effectiveness. I think the principal problem with
8 traditional design is that it by its very nature
9 creates the need to produce restrictions on movement,
10 and the unit management or the modular concept is
11 a way of overcoming what has been one of the major
12 drawbacks in the traditional design, is that it looks
13 on the surface from the outside as though there is
14 a lot of activity and movement going on but the fact
15 of the matter is that the very character of the
16 institution tends to make the security concerns
17 wipe out that advantage so the unit management
18 concept was developed to try to find some workable
19 alternative to that. Now, if we were to abandon the
20 unit management concept the question is what alternative
21 do we have.

22 We resort back to our previous methodology
23 which is to design facilities which are made of
24 a series of organs, so to speak, with specialized
25 functions and we would end up with the same problem

1 bbb

Silver

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2 of controlling the movement of population, and it
3 is particularly true when you are dealing with high
4 security operations, where you want to separate
5 individuals into discrete groups so that you can
6 avoid contact between them which could be the source
7 of serious conflict being you are dealing with in-
8 dividuals who are, let's say, of different security
9 categories because of the fact they are on detention
10 or in very high security correctional facilities
11 where you are dealing with extremely difficult
12 and aggressive types.

13 MR. YOUNG: That's all the questions we
14 have.

15 MR. CORSI: I have only one question.

16 BY MR. CORSI:

17 Q Petitioners' Exhibits 1 and 2, do you know
18 when approximately these were prepared or the
19 originals were prepared by Gruzen & Partners?

20 A I couldn't give you the date but I will say
21 this much. It was done very early on in the design
22 process. I mean these drawings were at the end of
23 what I would call the design development phase of the
24 contract which is somewhere around 35 percent through
25 the contract that we had with General Services

1 bhh

Silver

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2 Administration and represent the thinking at that
3 time. There is no reason they should be assumed to
4 be the inalterable and in fact that this was the
5 final and approved design or that it represented every
6 thought that we had on the project.

7 The working drawings which are the construction
8 documents from which the building is built show our
9 intention far more completely because those were
10 the drawings from which the contractor actually built
11 the building, so I would say these are design drawings.
12 They are useful insofar as they do show a lot of
13 information about the building but they are a point
14 along the design phase and not in and by itself a
15 completed set of documents that represent all the
16 input that, or all of our values or attitudes. As
17 I said there are things on here that we have convinced
18 the Bureau to delete which was the double door arrangement
19 on this, these maximum security units. That was one
20 thing.

21 There may have been changes to the arrangements
22 of this space.

23 Q Referring to the dormitory sketch?

24 A Because the question was raised before,
25 and since you are alluding to this drawing I think

1 bbh

Silver

2 I ought to respond. The number of fixtures in here
3 as relates to the population in here, well, basically
4 the criteria for planning for toilets, lavatories,
5 and showers is you provide about one per 15 for
6 water closets.

7 Q Water closet being a toilet?

8 A Toilet, yes. One per 15 for urinals and
9 one per 15 for lavatories. That's one set of criteria
10 which is commonly accepted and one per 15 for showers.
11 There are other criteria which specify one per eight
12 for toilets and one per eight for showers. As to which
13 one applies I mean there is no code that exists that
14 specifies that.

15 If we follow National Association of Sheriffs
16 as a guideline then the one per 15 is usually adequate.
17 There are some jurisdictions which establish it in
18 their jail rules. Like the State of New Jersey has
19 a set of jail rules. The State of New York has a set
20 of jail rules. The State of Minnesota is in the process
21 of writing a set of jail rules so it never existed
22 before and you didn't know what sources to use. You
23 had to make up your own conclusions. And best profession
24 judgment in my mind would be one provides one shower,
25 one toilet, one lavatory, one urinal on the basis of

A 2464

Silver

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1 bbh

2 one per unit from 8 to 15. If the number falls
3 in that range, a 9 or a 10 or 11 unit would generally
4 be adequate with one but if you got to a range of
5 about 15 it would definitely be talking about two
6 when you get to maybe 14 or 15 in tens per unit.

7 Again there is no legal code which is always
8 nice for architects to be able to turn to a book
9 and say this is what is required. When that does not
10 exist one has to turn to the best available judgments
11 from people who have been doing this work for innumerabl
12 number of years and it all goes back to utilization.
13 That's the real question.

14 MR. CORSI: I have nothing further.

15 MR. YOUNG: Okay, fine.

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2 STATE OF NEW YORK

3 COUNTY OF NEW YORK

4 I, Barbara Boehm, a Notary Public within and
5 for the State of New York, do hereby certify:

6 That Paul Silver, the witness whose deposition
7 is hereinbefore set forth, was duly sworn by me and that
8 such deposition is a true record of the testimony
9 given by such witness.

10 I further certify that I am not related to
11 any of the parties to this action by blood or marriage;
12 and that I am in no way interested in the outcome
13 of this matter.

14 IN WITNESS WHEREOF, I have hereunto set my
15 hand this 22nd day of March, 1977

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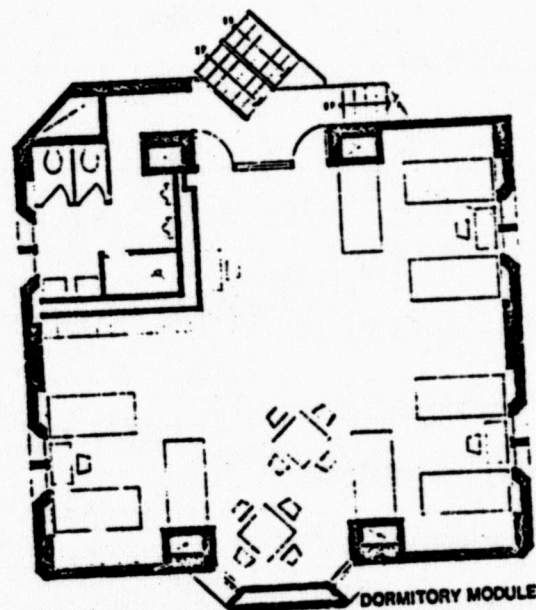
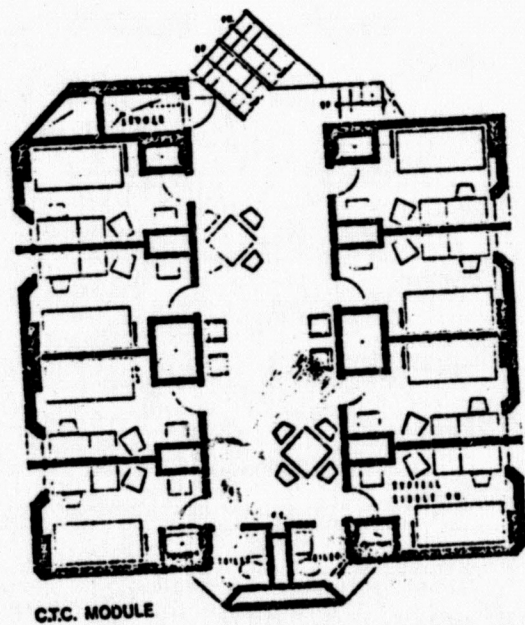
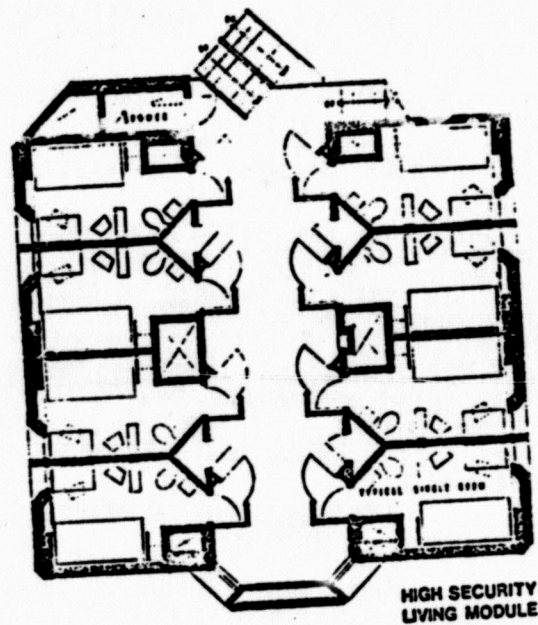
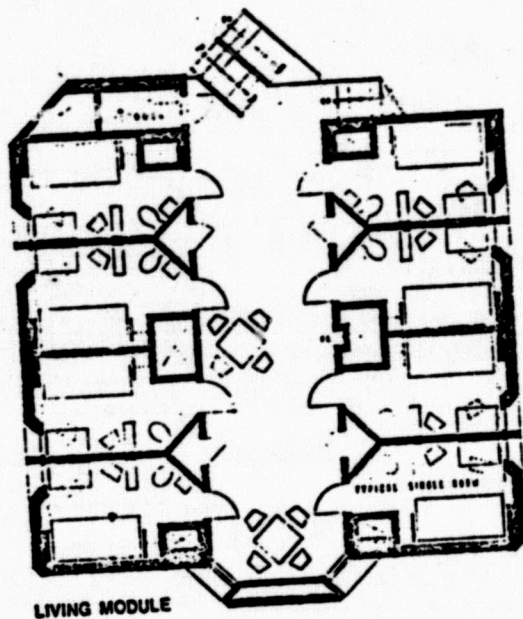
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Barbara Boehm

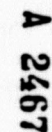


**METROPOLITAN CORRECTIONAL CENTER
FOLEY SQUARE COURTHOUSE ANNEX**

**ORUZEN &
PARTNERS
ARCHITECTS**

A 2466

*Petitioner's
Ex 1 filed
3/7/77
CB*



METROPOLITAN CORRECTIONAL CENTER 
FOLEY SQUARE COURTHOUSE ANNEX

Petitioner
 Ex 2 for
 3/7/77
 (33)

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ITS:jej
75-3973

A 2468

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES ex rel.
LOUIS WOLFISH, et al.,

Petitioners,

-v-

EDWARD LEVI, et al.,

Respondents.

: AFFIDAVIT

: 75 Civ. 6000 (EJF)

: U.S. DISTRICT COURT
FILED 6-21-77
S.D. of NEW YORK

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

MARSHALL HAINES, being duly sworn, deposes and
says:

1. I am research analyst at the Metropolitan
Correctional Center ("MCC") in New York, and I submit this
affidavit to describe the conduct and results of a revised
survey and study which I conducted to determine the average
length of confinement for inmates at the MCC.

2. In my original study (EX-TT and UU), I had
used a sample of all inmates discharged from the MCC between
August 2, 1975 and August 13, 1976. After my testimony in
this case, I reached the conclusion that this sample tended
to underestimate the average length of stay by failing to
include a sample of those inmates who were still incarcerated
at the MCC on August 13, 1976. I informed the attorneys for
respondents of this fact, and they requested that I undertake
to revise and correct that original study.

3. In order to correct the overrepresentation of
short-term inmates in my earlier study, and to present
accurate data concerning the average length of confinement
of the inmates at the MCC, there were two alternatives open
to me. First, I could have chosen a sample from among all

admissions to the MCC. However, there is no distinct admissions file maintained at the MCC and the manual retrieval and compilation of such data presented too great a burden for me and my staff. Second, I could have simply corrected my earlier study by adding to it a similar sample of the inmates at the MCC on August 13, 1976. Since it is obvious that all persons admitted between two dates will either have been discharged or be incarcerated on the latter cut-off date, this second approach is in all respects the equivalent of the first.

4. Thus, I began my revised study by taking the data from my original study and correcting it for minor arithmetical errors. See Exhibit A annexed hereto. I then compiled the length-of-stay data for all inmates at the MCC on August 13, 1976 from the same sources of information used by petitioners in their study. See Exhibit B annexed hereto. The only differences between petitioners' study and Exhibit "B" are" (a) I have included information on some of the twenty-six inmates for whom petitioners were unable to locate that information, (b) I have calculated the data based only on the number of stays rather than aggregating the individual stays of each of the inmates; and (c) I have broken down the data more completely according to the classification of inmates. Finally, I combined the data contained in Exhibits A and "B" in order to give a composite view of the average length of stay of inmates at the MCC between August 2, 1975 and August 13, 1976. See Exhibit C annexed hereto.

5. In my original study I used a 25% sample of all inmates discharged between August 2, 1975 and August 13, 1976. For the sake of simplicity, I have added to that sample the

A 2470

100% rather than a 25% sample of all the inmates incarcerated on the latter date. Since a one-day sample will tend to overrepresent long-term inmates, see 77, infra, the resulting date contained in Exhibit C is somewhat biased in the direction of a longer average length of stay.

6. In my original study I used as the commencement date for my sample August 2, 1975, the date that the MCC opened. Although the inmates transferred to the MCC from the Federal Detention Headquarters at West Street had previous periods of incarceration, I considered it appropriate to ignore those periods because it was the average length of incarceration at the MCC with which I was concerned. To be certain of the validity of my revised study, however, I have computed the periods of incarceration at the Federal Detention Headquarters of all inmates who were transferred to the MCC when it opened, and I have added those periods to the date contained in Exhibit C. See Exhibit D annexed hereto. As Exhibit D makes clear, the mean length of incarceration for all inmates is thereby increased by only two days.

7. The differences in the results reached by my revised study and that of petitioners' is due, in my opinion, primarily to the deficiencies in the sample employed by petitioners. I do not believe that a one-day sample is an adequate basis upon which to make conclusions concerning the average lengths of stay of inmates whom one might expect to find at the MCC on a typical day. Moreover, the use of one-day samples necessarily overrepresents long-term inmates since they will always be a higher proportion of the population at MCC on one day than over time. Thus, in my opinion, it is only on the basis of a statistically sufficient sample of inmates who have been admitted to the MCC over a period of time that one can draw valid conclusions about the average

FPS:slc
6-2828

CORRECTED SAMPLE OF DISCHARGES

1 of 3

EXHIBIT A

A 2472	DAYS OF CONFINEMENT AT M.C.C.	STUDY	ESCAPE	DESGID.	CONT. OF-COURT	P/S	PRE- SENT.	SENT.	HO ENT.	IMM.	PROB. PAR-VIO	S/K	WRIT	WEEK- ENDER	N	Z
	1-10	16	7	18	3	80	170	85	213	14	20	137	46		809	56.61
	11-20	6	3	10	1	46	38	28	15	4	7		45	1	204	14.28
	21-30	5	2	11		12	16	13	4	1	7		28	1	100	7.00
	31-40	3		1	1	9	8	5	5		6		19	3	60	4.20
	41-50	3		1		4	2	1		1	7		9	1	29	2.03
	51-60			10		15	4	6	1		3		9	1	49	3.43
	61-70					7	2	2					11		22	1.54
	71-80	2		1		7	3	5		1	2		2	2	25	1.75
	81-90	2	1	5	1	6		3		1	2		6		27	1.89
	91-100		1			3	3				1		2		10	.70
	101-110	1		2		6	2	1					4		16	1.12
	111-120					2							4		6	.42
	121-130					6	2	1							9	.63
	131-140			5		5		1	1				2		14	.98
	141-150			1		4	1	1					4		11	.77
	151-160					3		1			1		2		7	.49
	161-170					1	1						1		3	.21
	171-180					1	1				2		1		5	.35

FPS:bg
6-2828DAYS OF
CONFINEMENT
AT M.C.C.

	<u>STUDY</u>	<u>ESCAPE</u>	<u>DESGTD.</u>	<u>CONT. OF-COURT</u>	<u>P/S</u>	<u>PRE- SENT.</u>	<u>SENT.</u>	<u>HO ENT.</u>	<u>IMM.</u>	<u>PROB. PAR-VIO</u>	<u>S/K</u>	<u>WRIT</u>	<u>WEEK- ENDER</u>	<u>N</u>	<u>%</u>
181-190					1				1	1		2		5	.35
191-200			1	1	1									3	.21
101-210					1							1		2	.14
211-220					2		1							3	.21
221-230															
231-240															
241-250															
251-260					1							1		2	.14
261-270			1											1	.07
271-280			1									1		2	.14
281-290					1									1	.07
291-300															
301-310															
311-320															
321-330															
331-340			1											1	.07
341-350															
351-360			1											1	.07
361-370															

A 2473

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06-2828

3 of 3

DAYS OF
CONFINEMENT
AT M.C.C.

	<u>STUDY</u>	<u>ESCAPE</u>	<u>DESGTD.</u>	<u>CONT. OF-COURT</u>	<u>P/S</u>	<u>PRE- SENT.</u>	<u>SENT.</u>	<u>HO ENT.</u>	<u>IMM.</u>	<u>PROB. PAR-VIO</u>	<u>S/K</u>	<u>WRIT</u>	<u>WEEK- ENDER</u>	<u>N</u>	<u>%</u>
371-380															
381-390						1								1	.07
391-400															
401-410															
411-420															
421-430			1											1	.07
GRAND TOTAL	38	14	71	7	224	254	154	239	23	59	137	200	9	1429	
%	2.65	.98	5.02	.49	15.68	17.77	10.78	16.72	1.61	4.13	9.59	14.00	.63		
TOTAL MAN DAYS	973	309	4798	345	9918	4142	3460	1483	529	2176	144	8201	419		36897
MEAN	25.61	22.07	67.57	49.29	44.28	16.31	22.47	6.21	23.00	36.88	1.05	41.01	46.56		25.82
MEDIAN	15.5	10.5	27.3	15.5	17.5	8.0	9.6	6.1	8.7	24.1	5.5	23.7	38.8		9.3

A 2474

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6-2828

ONE-DAY SAMPLE AT MCC - 8/13/76

1 of 4

EXHIBIT B

DAYS OF CONFINEMENT AT M.C.C.	STUDY	ESCAPE	DESGID.	P/S	PRE- SENT.	SENT.	HO ENT.	IMM.	PROB. PAR-VIO	S/K	WRIT	CONTEMPT	PC ADD-ONS	N	%
1-10	2	1	3	10	29	16	11		3	8	14	2	10	109	14.81
11-20	3	1	1	10	13	20	6	2	2		13		6	77	10.46
21-30	3		3	8	12	9	2	1	4		12	1	3	58	7.83
31-40	2		1	3	5	3			3		7	3		27	3.67
41-50	2		4	3	7	8		2	1		7	2	2	38	5.16
51-60			8	5	9	2		1	2		3		2	32	4.35
61-70			2	6	5	11			1		7		3	35	4.76
71-80				6	2	8		1			6	1		24	3.26
81-90	2		5	6	4	5			2		3		2	29	3.94
91-100	2		2	3	4	2					4		1	18	2.45
101-110			1	3	6	4			1		6	1	2	24	3.26
111-120	1	1	4	3	3	4		1	1		5		1	24	3.26
121-130	1	1	2	5	3	5			3		1	1	1	23	3.13
131-140		2	9	8	1	1			1		8		2	32	4.35
141-150		1	3	2		3		2			6	1	1	19	2.58
151-160			3	3	2	5					3		1	17	2.31
161-170				6	2	7		1			4	1	2	23	3.13

A 2475

2 of 4

[illegible]

**DAYS OF
CONFINEMENT
AT M.C.C.**

[illegible]

4 of 4

<u>DAYS OF CONFINEMENT AT M.C.C.</u>	<u>STUDY</u>	<u>ESCAPE</u>	<u>DESGID.</u>	<u>P/S</u>	<u>PRE- SENT.</u>	<u>SENT.</u>	<u>HO ENT.</u>	<u>IMM.</u>	<u>PROB. PAR-VIO</u>	<u>S/K</u>	<u>WRIT</u>	<u>CONTEMPT</u>	<u>PC ADD-ONS</u>	<u>N</u>	<u>%</u>
531-540				1									2	3	.41
541-550			1											1	.14
551-560															
561-570											1		1	2	.27
571-580															
581-590															
591-600													1	1	.14
601-610															
611-620													2	2	.27
N	18	7	71	114	114	128	19	12	26	8	134	17	68	736	
%	2.45	.95	9.65	15.49	15.49	17.39	2.58	1.63	3.53	1.09	18.21	2.31	9.24		100%
TOTAL MAN DAYS	878	677	11276	13238	6310	10828	192	1042	1945	8	13862	1692	12016	73964	
Mean	48.78	96.71	158.82	116.12	55.35	84.59	10.11	86.83	74.81	1.00	103.45	99.53	176.71		100.49
Median	35.5	125.5	128.0	90.5	36.5	66.0	9.1	60.5	50.5	5.5	77.2	75.5	135.5		68.2

A 2478

COMPOSITE SAMPLEEXHIBIT C

DAYS OF CONFINEMENT	STUDY	ESC	DES	CONT	P/S	PS	S	ENT. HO	IMM	PV	SK	WRT	WEEK	PC	N	%
1-10	18	8	21	5	90	199	101	224	14	23	145	60		10	918	42.40
11-20	9	4	11	1	56	51	48	21	6	9		58	1	6	281	12.93
21-30	8	2	14	1	20	28	22	6	2	11		40	1	3	158	7.30
31-40	5		2	4	12	13	8	5	0	9		26	3	0	87	4.02
41-50	5		5	2	7	9	9	0	3	8		16	1	2	67	3.09
51-60			18	0	20	13	8	1	1	5		12	1	2	81	3.74
61-70			2	0	13	7	13	0	0	1		18	0	3	57	2.63
71-80	2		1	1	13	5	13	0	2	2		8	2	0	49	2.26
81-90	4	1	10	1	12	4	8	0	1	4		9		2	56	2.59
91-100	2	1	2	0	6	7	2		0	1		6		1	28	1.29
101-110	1		3	1	9	8	5		0	1		10		2	40	1.85
111-120	1	1	4	0	5	3	4		1	1		9		1	30	1.39
121-130	1	1	2	1	11	5	6		0	3		1		1	32	1.48
131-140		2	14	0	13	1	2	1	0	1		10		2	46	2.12
141-150		1	4	1	6	1	4		2	0		10		1	30	1.39
151-160			3	0	6	2	6		0	1		5		1	24	1.11
161-170				1	7	3	7		1	0		5		2	26	1.20
171-180				0	7	3	7		1	2		5		2	14	.65

A 2479

EXHIBIT C

DAYS OF CONFINEMENT	STUDY	EXC	DES	CONT	P/S	PS	S	ENT.	IMM	PV	SK	WRT	WEEK	PC	N	%
								HO								
181-190				1	1	2	4		1	1		5		0	15	.69
191-200			2	2	4	2	1			0		0		1	12	.55
201-210			1	1	6		1			1		4		2	16	.74
211-220			1		4		1					0		0	6	.28
221-230				0	2		1					1		0	4	.18
231-240				0	0		2					2		3	7	.32
241-250				1	0		0					1		2	4	.18
251-260				0	2		1					3		1	7	.32
261-270			2		1		0					2		2	7	.32
271-280			3		0		1					1		1	6	.28
281-290					1		0					1		1	3	.14
291-300			1		3	1	0					1		0	6	.28
301-310			2		1		0					1		1	5	.23
311-320			1		1		0					1		1	4	.19
321-330			1		0							2		1	4	.19
331-340			1		0									0	1	.05
341-350			2		0									0	2	.09

EXHIBIT C

DAYS OF CONFINEMENT	STUDY	ESC	DES	CONT	P/S	PS	S	ENT. HO	IMM	PV	SK	WRT	WEEK	PC	N	%
351-360			2							1				1	5	.23
361-370					0		1							1	2	.09
371-380					0									2	2	.09
381-390					0	1	1								2	.09
391-400					0									0	0	
401-410														0	0	
411-420			1									1		1	3	.14
421-430			3												3	.14
431-440			1												1	.05
451-460																
461-470																
471-480																
481-490					1		1								2	.09
491-500					1										1	.03
501-510			1									1			2	.09
511-520																
521-530																
531-540					1									2	3	.14

A 2481

EXHIBIT 2

4 of 4

DAYS OF CONFINEMENT IN M.C.C.	STUDY	ESCAPE	DESGTD.	CONT. OF-COURT	P/S	PRE- SENT.	SENT.	HO ENT.	IMM.	PROB. PAR-VIO	S/K	FED. WRIT	WEEK	PC	N	%
541-550			1												1	.05
551-560																
561-570												1		1	2	.09
571-580																
581-590																
591-600														1	1	.05
601-610																
611-620														2	2	.09
621-630																
631-640																
641-650																
GRAND TOT N	56	21	142	24	338	368	282	258	35	87	145	334	9	68*	2165	
%	2.59	.97	6.56	1.11	15.61	17.00	13.03	11.92	1.62	3.93	6.70	15.43	.42	3.14		
Total Man	1851	986	16074	2037	23156	10452	14288	1675	1571	4121	152	22063	419	12016	110861	
Mean	33.05	46.95	113.20	84.88	68.51	28.40	50.67	6.49	44.89	48.48	1.05	66.06	46.56	176.71	51.21	
Median	21.8	16.8	60.5	45.5	33.0	9.7	18.8	613	16.3	30.0	5.5	34.0	38.5	135.5	16.35	

A 2482

(See Attached Footnote on Following Page).

* The figures as to the protective custody unit include only those derived from the one-day sample (Exhibit B), because in the original sample of discharged inmates, no break-down was made for this group.

A 2483

FPS:slc
6-2828

A 2484

EXHIBIT D

This Exhibit is presented to demonstrate the effect of cutting off pre-8/2/75 data on the final averages.

	<u>STUDY</u>	<u>ESC</u>	<u>DES</u>	<u>CONT</u>	<u>P/S</u>	<u>P.S.</u>	<u>S.</u>	<u>HO</u>	<u>IMM.</u>	<u>PV</u>	<u>S/K</u>	<u>WRIT</u>	<u>WEEK</u>	<u>PC</u>	<u>TOTAL</u>
Man/days from Truncated Data started 12/75	1851	986	16074	2037	23156	10452	14288	1675	1571	4121	152	22063	419	12016	110861
Pre 8/2/75 Data	140	0	969	173	1841	460	1077	7	91	96	0	684	187	0	5725
Man/day total	1991	986	17043	2210	24997	10912	15365	1682	1662	4217	152	22747	606	12016	116586
N Stays	56	21	142	24	338	368	282	258	35	85	145	334	9	68	2165
Modified Average to include period of time cut off in pre 8/2/75 sample	35.55	46.95	120.02	92.08	73.96	29.65	54.49	6.52	47.49	49.61	1.05	68.10	67.33	176.71	53.85

Clearly, the addition of the pre-8/2/75, data had little effect on the column averages.

(272)

A 2485

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES ex rel.
LOUIS WOLFISH, et al.,

Petitioners,

-v.-

EDWARD LEVI, et al.,

Respondents.

AFFIDAVIT

75 Civ. 6000 MEF

MICHAEL CIAFFA, being duly sworn, deposes and says:

1. I am a law student assistant in the Prisoners Rights Unit of the Legal Aid Society. I make this affidavit to describe the conduct and results of a survey I conducted on behalf of the petitioner class in the above-captioned case to determine the average length of stay for inmates at the Metropolitan Correctional Center, 150 Park Row, New York, New York.

2. Counsel for the petitioner class requested that I conduct this survey by obtaining a list of all of the inmates housed at MCC on one particular day, determining the number of days that each of those inmates was at MCC, and then calculating from those totals the average length of stay of those inmates.

3. The sample day chosen was August 13, 1976. This date was decided upon because it was the date suggested by this Court when petitioners' counsel asked respondents' witness Marshall Haines to conduct such a length of stay study. (See trial transcript at 2689). There was no other significance to this particular day, and it is assumed that the average length of stay for the inmates housed at MCC on this date would be

typical of the average length of stay for inmates housed at MCC on any given date.

4. The survey was conducted with the assistance of Marshall Haines and the records room staff at MCC. I first obtained an "inmate locator list" for August 13, 1976. That list is MCC's record of all of the inmates, other than those in the protective custody unit, who were housed in the institution on that day. I then obtained all of the "commitment summary sheets" which the MCC records office had for the inmates named on the August 13th inmate locator list. A commitment summary sheet is MCC's record of the dates of arrival and departure of inmates. In those instances where the commitment summary sheet was missing, unclear, or incomplete, I frequently was able to obtain an inmates's arrival and departure dates from the other documents, including the "current" or "dead" files, and the "inmates information system." The latter consisted of computer printouts, and "microfiche records." By following these procedures, I was able to determine the arrival and departure dates of all but 26 of the inmates listed on the August 13th inmate locator list. Those remaining 26 inmates were eliminated from the survey because MCC's records did not provide sufficient information as to the dates of their arrivals and departures to determine their lengths of stay.

5. Persons in the protective custody unit are not included in the inmate locator list for security reasons. It was therefore necessary to rely on data provided by Marshall Haines as to the lengths of stay of the petitioners housed in that unit on the sample day.

A 2487

6. I used the data thus obtained to compute several statistics relevant to length of stay.

6a. First, I determined the total length of stay for each of the inmates in the survey. In most instances, this involved determining the number of days from the date the inmate arrived at the institution until he left. In those instances where an inmate was at MCC on more than one occasion, I determined that inmate's total length of stay by determining the total number of days that inmate had spent at MCC. I then added all lengths of stay for the individual inmates together and ~~calculated~~ ^{divided} the total by the number of inmates in the survey to determine the average length of stay. The average length of stay for MCC inmates was thus determined to be 163 days. Assuming that August 13th was a typical day, this means that the inmates in MCC on any given day will remain in that institution an average of 163 days.

6b. Based on the fact that an individual may spend several periods of time at the MCC, which are separated by periods of time in which said person is not in the MCC (either because released on bail or at another institution or free), a separate calculation was made to determine the average length of these stays. This was determined by treating each continuous uninterrupted period as a separate stay. Under this calculation an inmate who had entered and left MCC and then subsequently returned was treated as if he were two different people. This average of these stays was slightly more than 107 days. This calculation was not limited to continuous stays through and including August 13, 1976, but also included other continuous stays that terminated prior to that date, or commenced subsequent to that date, so long as the person who served that

A 2488

period of time was ⁱⁿ fact in MCC on August 13, 1976. This calculation was derived as in the calculation explained from the total number of days spent in MCC by inmates in that institution on August 13, 1976, but was divided by the total number of continuous stays rather than by the total number of actual people.

6c. Thirdly, I calculated the median per person and median for each separate stay (as described in 6b) by placing each stay in order of length and ascertaining the mid-point (when half the stays were above that point and half the stays were below). Under this calculation, the median per person was 143 days, per man 126 days, per woman 125 days, and per protective custody inmate 322 days. The median for each separate stay (men only) was 72 days.

6d. Fourthly, I calculated the 100 longest stays. The shortest of these stays was 251 days, the longest 614 days.

7. Some of the inmates utilized for the survey were still in MCC when the raw data was collected. For purposes of the computations, April 26, 1977 was considered the final date of stay at MCC, as if they had left the institution on that date.

Michael Ciaffa

MICHAEL CIAFFA

Sworn to before me this

30 day of May 1977.

Phyllis Scott Bantger

NOTARY PUBLIC

A 2489

April 29, 1977

PY HAND

Mr. Marshall Haymes
Research Director
Metropolitan Correctional Center
150 Park Row
New York, New York 10038

Dear Mr. Haymes:

Pursuant to my agreement with Louis Corsi, Esq. enclosed please find a copy of the raw data collected by Mike Ciaffa, a law student with our office, which contains information concerning the total time spent in MCC by inmates in the institution on August 13, 1976. As you know, this data does not include information on inmates in protective custody on that date, or on 21 other inmates whose records were missing or incomplete. The dates covered by the survey are August 2, 1975, through April 26, 1977.

This data will be used to calculate the length of stay in the institution of these inmates. To make as complete and accurate calculations for this study as possible it is essential that we obtain the missing information concerning the protective custody inmates and if possible the other 21 inmates whose information is incomplete.

Hopefully, through the cooperation of your office we will be able to obtain this information.

Sincerely yours,

MICHAEL B. MUSHLIN
Project Director

MPM/yl

cc: Louis G. Corsi, Esq..
Assistant United States Attorney
One St. Andrew's Plaza
New York, New York 10007

A 2490

	Total #days	#men	Avg per man	#stays	Avg per stay
Men	58765	389	151.06	606	96.97
P.C.'s	11560	36	321.11	54	214.07
Women	5654	41	137.90	49	115.38
Total	75979	466	163.04	709	107.16
omitted - lack of information	26				
	492				

median per person 143 days

median per man 126 days

median per stay ^(men) 72 days ^(P.C.'s) 203d ^(women) 91d

median women 125 days

median P.C.'s 322 days

100 longest stays - 251 days to 614 days

A 2491

	Total #days	#men	Avg per man	#stays	Avg per stay
A	2379	18	132.16	30	79.30
B	4630	27	171.48	46	100.65
C	4896	36	136.00	59	82.98
D	3279	20	163.95	31	105.77
E	665	4	166.25	4	166.25
F	1979	11	179.90	14	141.35
G	4160	26	160.00	40	104.00
H	3678	22	167.18	36	102.16
I	749	3	249.66	4	187.25
J	1102	9	122.44	17	64.82
K	625	6	104.16	11	56.81
L	1317	12	109.75	18	73.16
M	6193	39	158.79	60	103.21
N	1011	6	168.50	9	112.33
O	1693	10	169.30	13	130.23
P	3087	26	118.73	41	75.29
Q	189	1	189.00	1	189.00
R	3223	24	134.29	33	97.66
S	5552	35	158.62	47	118.12
T	2265	17	133.23	25	90.60
U	263	1	263.00	4	65.75
V	1586	11	144.18	19	83.47
W	3411	14	179.52	34	100.32
Y	326	3	108.66	6	54.33
Z	507	3	169.00	4	126.75
Women	5654	41	137.90	49	115.38
P.C.	11560	36	321.11	54	214.07
24 men	58765	389	151.06	606	96.97
TOTAL	75779	466	163.04	709	107.16

inmates

10

9

8

7

6

5

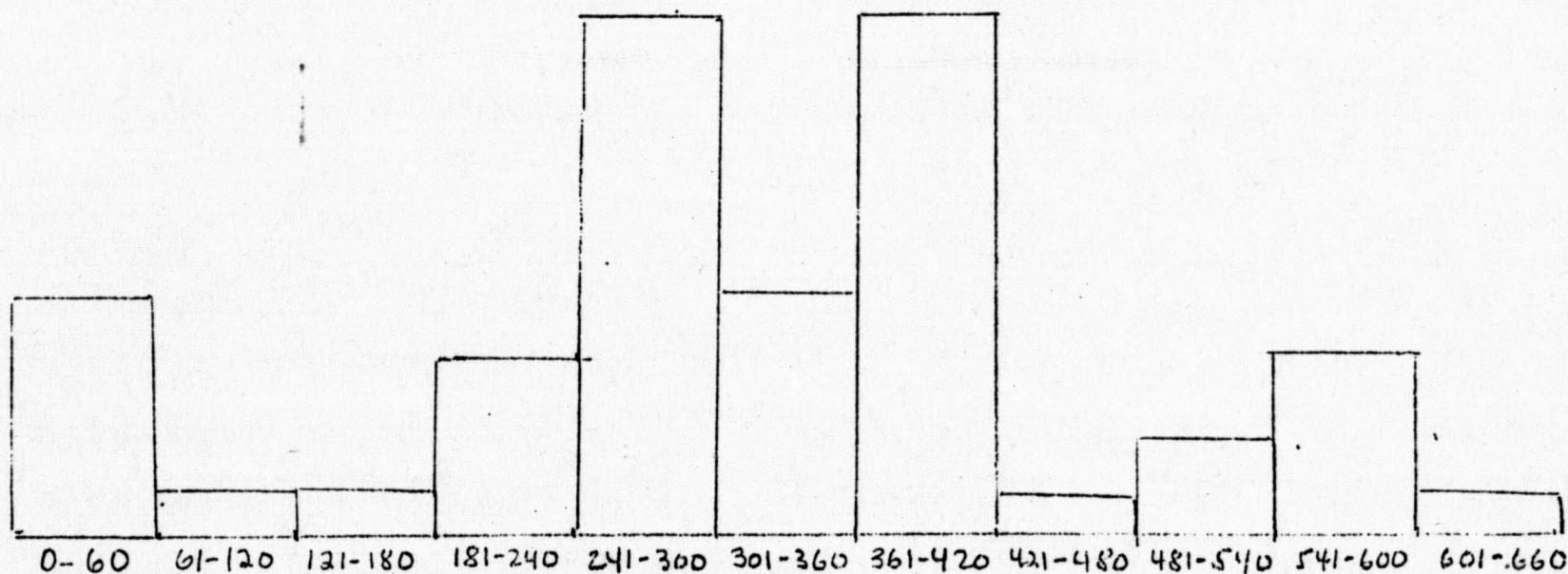
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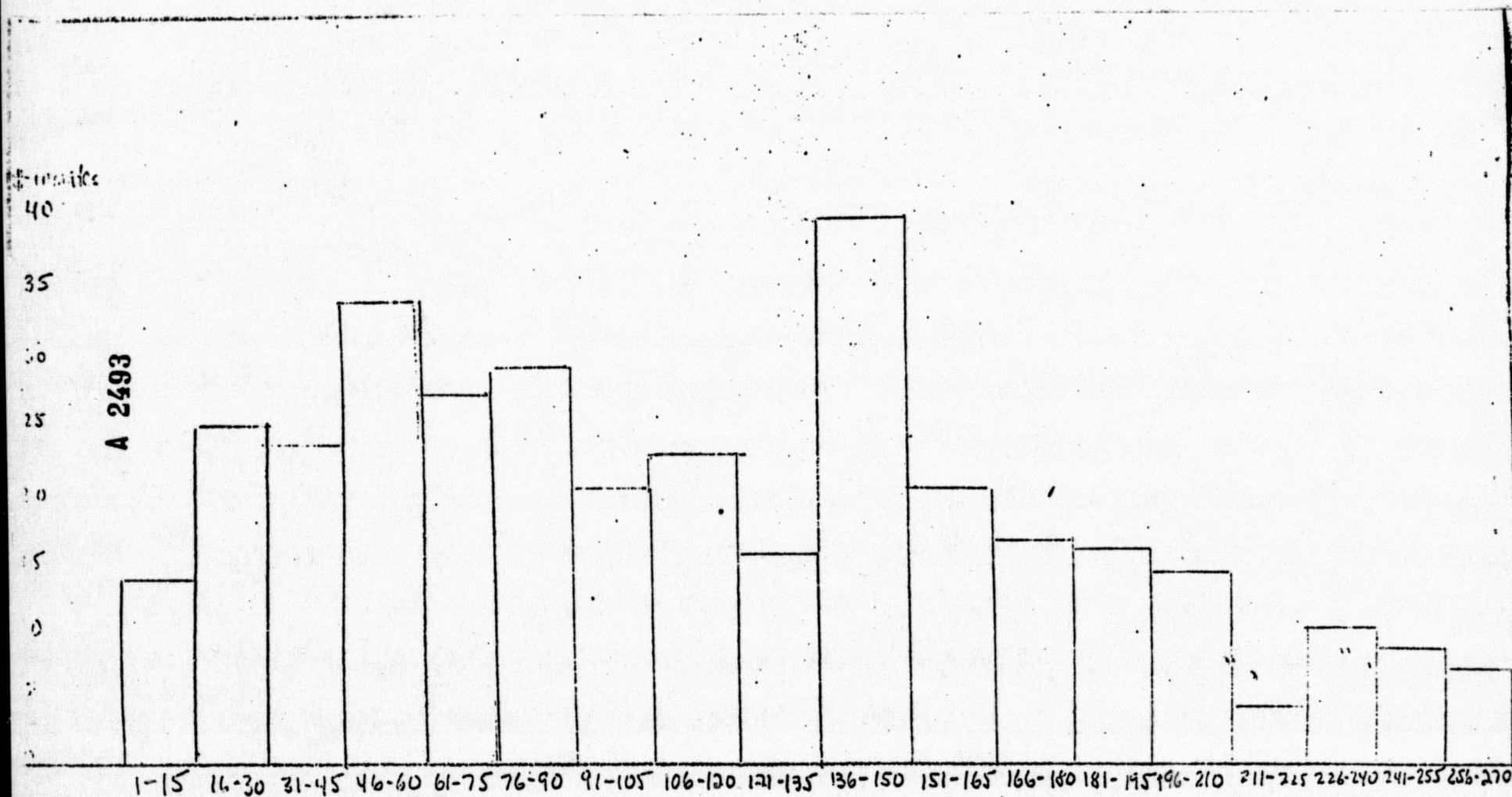
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1

A 2492

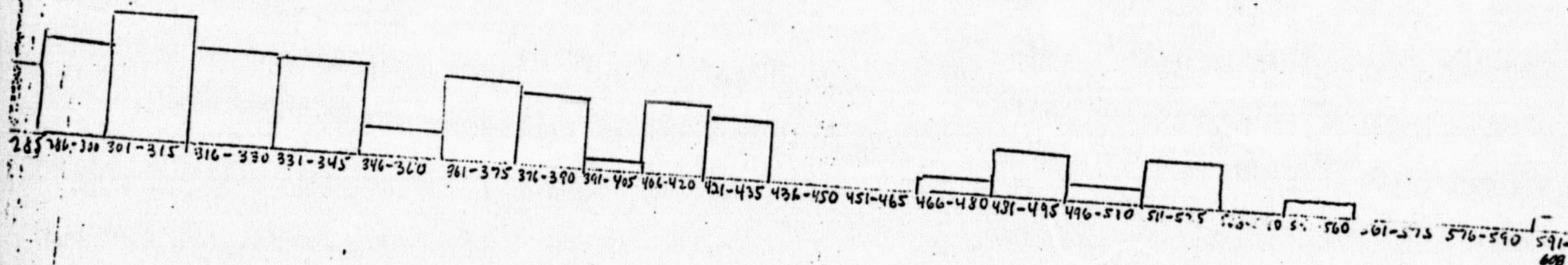


Length of stay - in days (Protective Custody)



Length of stay - in days (men only)
(excluding protective custody)

A 2494



A 2495

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA ex rel. :
LOUIS WOLFISH, et al., :

Relators, :

- against - :

EDWARD LEVI, et al., :

Respondents. :

-----x

STIPULATION OF FACTS

75 Civ. 6000 (MEF)

The parties, by their attorneys, hereby stipulate that the following facts are not in dispute in this action, each party reserving the right to object to the materiality or relevance of any such stipulated fact:

I-1 The following is a description of each of the residential units at the MCC and the furnishings generally found in each unit:

SECOND FLOOR

Honor Unit

This housing unit is located on the second floor and consists of three clusters of residential rooms: one cluster of six rooms; one cluster of seven rooms; and one cluster of eight rooms. These clusters open onto a multi-purpose area which consists of approximately 674.97 square feet of floor space.

(i) Six Room Cluster

The residential rooms in this cluster which open onto a corridor (8'-6" x 31'-9 1/4", or approximately 298.97 sq. ft.) have the following (approximate) square feet of floor space and contain the following number of beds:

<u>Rm. No.</u>	<u>Sq. Ft.</u>	<u>Beds**</u>
A-201	103.3	1
A-202	114.79	1
A-203	98.5	1
A-204	118.45	1
A-205	115.12	1
A-206	160.47	1

(ii) Eight Room Cluster

The residential rooms in this cluster which open onto a corridor (8'-6" x 31'-9 1/4", or approximately 298.97

* The headings set forth hereinafter are adopted from the amended petition and are included only to facilitate cross-reference to the amended petition.

** Pursuant to the Court's order dated January 19, 1977, the respondents are enjoined from housing more than one inmate in each of the 389 residential rooms at the MCC (i.e., exclusive of the dormitory unit on 11 South) after March 19, 1976. In those residential rooms which had two beds or bunkbeds, the respondents have replaced them with one bed.

A 2497

sq. ft.) have the following (approximate) square feet of floor space and contain the following number of beds:

<u>Rm. No.</u>	<u>Sq. Ft.</u>	<u>Beds</u>
B-207	117.2	1
B-208	115.84	1
B-209	98.5	1
B-210	114.79	1
B-211	98.5	1
B-212	115.17	1
B-213	115.42	1
B-214	101.91	1

(111) Seven Room Cluster

The residential rooms in this cluster which open onto a corridor (8'-6" x 31'-9 1/4", or approximately 298.97 sq. ft.) have the following (approximate) square feet of floor space and contain the following number of beds:

<u>Rm. No.</u>	<u>Sq. Ft.</u>	<u>Beds</u>
C-215	114.62	1
C-216	115.84	1
C-217	98.5	1
C-218	114.79	1
C-219	98.5	1
C-220	115.17	1
C-221	122.9	1

Each room contains two windows (51" x 22" each), a washbasin and toilet,* chair, mirror and light fixture, towel rack and shelf, light and wall bracket.**

There are two shower rooms (7'-3" x 4'-9"; 9'-9 1/2" x 5'0") each containing two shower-heads with a dressing room (5'-6" x 7'-3"; 5'-3" x 7'-1") for use by the

* Room A 206 also contains a private shower.

** Desks (w/3 drawers), small tables and 36 cabinets and additional chairs have been distributed throughout this unit for use by inmates in their rooms.

inmates housed in this unit. In addition, there is a common bathroom (containing washbasin and toilet) available for use by inmates.

Room A-201 also contains a private shower and is used, as needed, by the Hospital Unit as an isolation room.

(iv) Other Rooms

Staff Office (11'-1" x 12' x 1")

Linen & Utility Rm. (9'-3" x 11' - 11")

Janitorial Rm. containing a clothes washer and drier

Pantry (9'-4 1/2" x 9'-3", or 86.3 sq. ft.) containing:

1 hot water maker (for coffee)

1 toaster

1 microwave oven and table

1 wall unit containing a 2-burner stove, 2 door refrigerator, ice-maker and sink

Visiting room and adjoining search room.*

Multipurpose Area (28'- 9" x 22'- 9", or approximately 674.97 sq. ft.) containing:

21 chairs

1 couch

1 pay telephone

1 long-distance telephone

1 25" color T.V.

6 tables

1 two-unit mail box (personal & attorney mail)

* This room is not used; inmates housed on this floor receive visitors in the 5th Floor visiting room.

A 2499

1 jogging machine

1 exercycle

1 medicine ball

1 universal weight lifting machine

THIRD FLOOR

There is one residential unit on the Third Floor consisting of a total of 24 rooms arranged in three clusters of 8 rooms each; these clusters open onto a single story multipurpose room (see below). Except for individual residential rooms, bathroom and shower facilities and the pantry, all areas in this unit have wall to wall carpeting.

(1) Residential Rm:

Residential rooms in each cluster open onto a corridor* (34'-6" x 10'-0", or approximately 339.35 sq. ft) and have the following (approximate) dimensions and contain the following furnishings:

<u>No. of Rms</u>	<u>Dimensions</u>	<u>Sq. Ft.</u>
12	11'-6" x 7'-6"	75.9
8	11'-6" x 7'-8"	76.99
4	11'-6" x 7'-9"	77.66

Window (20 of 24 rooms) (22" x 51 1/2")

Bed

Desk (w/3 drawers)

Chair

Washbasin and toilet

Towel rack and shelf

Mirror and light fixture

Lamp and wall bracket (20 rooms); Ceiling
light (4 rooms)

In addition, there are three showers in this unit, one in each cluster. Twenty of the 24 residential rooms either presently have a book shelf or will have one after

* Each corridor has two windows, each window measuring approximately 17" x 52".

security modifications are completed.

(ii) Multipurpose room (42' x 38'-4", or approximately 1497.9 sq. ft.) and a separate recreation room with corridor (approximately 352.64 sq. ft.) containing:

Windows (Multipurpose Rm):

2 windows, each window measuring
9'-0 x 6'-3" divided into 4 vertical
sections and 2 horizontal sections

Window(Rec. Rm.):

1 window 13'-6" x 3'-4" divided into
3 vertical sections

1 pool table

3 couches

5 lounge chairs

23 chairs

5 tables (eating)

4 coffee tables

2 pay telephones

2 long distance telephones

2 T.V.'s (one color)

1 jogging machine

1 clothes washer and drier

1 janitorial closet

1 linen closet

1 two-unit mail box (personal & attorney
mail)

1 universal weight-lifting machine

1 water fountain

1 exercycle

1 medicine ball

1 typewriter

(iii) Visiting room (approximately 318.57
sq. ft.), with a separate search room, containing:

M-1715

A 2501

1 window 15'-3" x 3'-4"

curtains

1 table

3 coffee tables

9 chairs*

1 couch

wall-to-wall carpet

(iv) Food Pantry (approximately 365.71 sq. ft)

containing:

1 serving table

1 microwave oven and table

1 drink dispenser (double unit)

1 refrigerator/freezer

1 ice machine

1 condiment table (w/6 unit holder)

1 counter (w/sink and storage area)

trash barrel

FIFTH AND SIXTH FLOORS

There are two housing units on these floors designated as 5 North and 5 South.

5 South

5 South consists of 6 clusters of 8 rooms each (on two floor levels) for a total of 48 rooms. These room clusters open onto a two-story multipurpose room (see below). Except for individual residential rooms, bathroom and showers facilities and the pantry, all areas of this unit have wall-to-wall carpeting.

(1) Residential Rm:

Residential rooms in each cluster open onto a corridor. The three corridors on the lower level each measure approximately 29'-6" x 10'-0", or 295 sq. ft.; the three corridors on the upper level, including the landing,

* Additional chairs, if needed, are brought into the visiting room from the unit during visiting hours.

M-1715

A 2502

measure approximately 33'-2" x 10'-0", or 319.77 sq. ft.
The residential rooms have the following dimensions and
contain the following furnishings:

<u>No. of Rms.</u>	<u>Dimensions</u>	<u>Sq. Ft.</u>
24	7'-6" x 11'-6"	75.9
16	7'-8" x 11'-6"	76.99
8	7'-5" x 11'-6"	77.66

Window (22" x 51 1/2")

Bed (w/2 drawers)

Desk (w/3 drawers) and chair

Lamp and wall bracket

Book shelf

Mirror and light fixture

Washbasin

Curtains

Bulletin boards

In addition, two toilets, one shower, and two
additional washbasins are located in each 8 room cluster,
for a total of 12 toilets, 6 showers and 12 additional
washbasins.

(ii) Multipurpose room with alcoves (42' x
38'-4", or approximately 1649.52 sq. ft) and a separate
recreation room (approximately 278.99 sq. ft.) containing:

Windows (Multipurpose Rm):

2 windows, each measuring 12'-6" x 9'-2"
divided into 4 vertical sections and 2
horizontal sections

1 window measuring 12'-6" x 7'-2 1/2"
divided into 3 vertical sections and
2 horizontal sections

Windows (Recreation Rm):

1 window measuring 22'-6" x 3'-4" divided
into 5 vertical sections

13 tables (eating)

M-1715

A 2503

- 4 coffee tables
- 3 lounge chairs
- 62 chairs
- 2 couches
- 2 pay telephones
- 2 long distance telephones
- 1 two-unit mailbox (personal and attorney mail)
- 2 bookcases
- 1 water fountain
- 1 pool table
- 1 ping pong table
- 1 exercycle
- 1 exercise chair
- 2 color T.V.'s
- 1 black and white TV
- 3 hair dryers
- 1 sewing machine
- 1 jogging machine
- 1 set of wall-exercise pulleys
- 1 medicine ball
- 1 dip bar
- 1 typewriter
- 1 clothes washer and drier
- linen closet
- janitorial closet (with cleaning equipment)

(iii) Education area with corridor (approximately 919.84 sq. ft.) containing:

- black board
- tack board
- 15 school desks

(iv) Pantry with corridor (approximately 520.78 sq. ft.) containing:

A 2504

M-1715

1 microwave oven and table

1 toaster

1 coffee maker

1 refrigerator unit

1 ice machine

1 sink and cabinet unit w/2 burners

(v) Visiting Rm (21'-8" x 19'-1/2", or approximately 415.35 sq. ft.) with adjacent inmate search room, containing:

1 window 19' x 3'-4"

divided into 5 vertical sections
curtains

1 bathroom

22 chairs*

6 tables

2 couches

1 water fountain

5 North

5 North consists of 6 clusters of 8 rooms each (on two floor levels) for a total of 48 rooms. These room clusters open onto a two-story multipurpose room (see below). Except for individual rooms, bathroom and shower facilities and the pantry, all areas of this unit have wall-to-wall carpeting.

(i) Residential Rooms:

Residential rooms in each cluster open onto a corridor.** The three corridors on the lower level each measure approximately 34'-6" x 10'-0", or 339.35 sq. ft.; the three corridors on the upper level, including stairway landings, measure approximately 38'-2" x 10'-0", or 364.12 sq. ft. The residential rooms have the following dimensions and contain the following furnishings:

* Additional chairs, if needed, are brought into the visiting room from the unit during visiting hours.

** Each corridor has two windows, each window measuring approximately 17" x 52".

LC:1nd
M-1715

A 2505

<u>No. of Rms.</u>	<u>Dimensions</u>	<u>Sq. Ft.</u>
24	7'-6" x 11'-6"	75.9
16	7'-8" x 11'-6"	76.99
8	7'-9" x 11'-6"	77.66

Window (22" x 51 1/2")

Bed (w/2 drawers)

Desk (w/3 drawers) and chair

Lamp and wall bracket (44 rooms); ceiling
lights (4 rooms)

Book shelf

Towel rack and shelf

Mirror and light fixture

Washbasin and toilet

In addition, there is one shower located in each
8 room cluster, for a total of 6 showers.

(11) Multipurpose room with alcoves (42' x 38'-4",
or approximately 1649.52 sq. ft.) and a separate recreation
room (approximately 278.99 sq. ft.) containing:

Windows (Multipurpose Rm.):

2 windows, each measuring 12'-6" x 9'-2"

divided into 4 vertical sections and

2 horizontal sections

1 window measuring 12'-6" x 7'-2 1/2"

divided into 3 vertical sections and 2

horizontal sections

Windows (Rec. Rm.):

1 window measuring 22'-6" x 3'-4" divided

into 5 vertical sections

10 tables (eating)

33 chairs

4 coffee tables

2 couches

3 lounge chairs

M-1715

A 2506

- 1 two-unit mailbox (personal & attorney mail)
- 2 pay telephones
- 2 long distance telephones
- 2 color T.V.'s
- bookcase
- 1 water fountain
- 1 ip bar
- 1 typewriter
- 1 medicine ball
- 1 universal weight-lifting machine
- 1 jogging machine
- 1 exercycle
- 1 ping pong table
- 1 clothes washer and drier
- linen closet
- janitorial closet (w/ cleaning equipment)

(iii) Education area with corridor (approximately 919.84 sq. ft.) containing:

- blackboard
- tack board
- 1 pool table

(iv) Pantry with corridor (approximately 520.78 sq. ft.) containing:

- 1 serving table
- 1 microwave oven and table
- 1 drink dispenser (double unit)
- 1 coffee urn (4 unit)
- 1 toaster
- 1 refrigerator/freezer
- 1 ice machine
- 1 condiment table (w/6 unit holder)
- 1 counter (w/sink and storage area)
- trash barrels
- 1 sink

M-1715

(v) Visiting Rm (21'-8" x 19'-1/2", or approximately 415.35 sq. ft.) with adjacent inmate search room, containing:

- 1 window measuring 19' x 3'-4" divided into 5 vertical sections
- 1 bathroom
- 22 chairs*
- 10 tables
- 2 couches
- curtains
- 1 water fountain

Administrative and Staff Offices

Adjacent to the education areas on 5 North and 5 South are a total of eight offices used by the Unit Management Team, and for counseling; in addition 2 bathrooms (wash-basin and toilet) are located in this area, one in 5 North and one in 5 South.

SEVENTH AND EIGHTH FLOORS

There are two housing units on these floors designated as 7 North and 7 South.

7 North

7 North consists of 6 clusters of 8 rooms each (on two floor levels) for a total of 48 rooms. These room clusters open onto a two-story multipurpose room (see below). Except for individual residential rooms, bathroom and shower facilities, and the pantry, all areas of this unit have wall to wall carpeting; in the fall of 1976, the original carpeting was replaced.

(1) Residential Rooms

Residential rooms in each cluster open onto a corridor.** The three corridors on the lower level each

* Additional chairs, if needed, are brought into the visiting room from the unit during visiting hours.

** Each corridor has two windows, each window measuring approximately 17" x 52".

M-1715

A 2508

measure approximately 34'-6" x 10'-0", or 339.35 sq. ft.; the three corridors on the upper level, including stairway landings, measure approximately 38'-2" x 10'-0", or 364.12 sq. ft. The residential rooms have the following dimensions and contain the following furnishings:

<u>No. of Rms.</u>	<u>Dimensions</u>	<u>Sq. Ft.</u>
24	7'-6" x 11'-6"	75.9
16	7'-8" x 11'-6"	76.99
8	7'-9" x 11'-6"	77.66

Bed (w/2 drawers)

Window (22" x 51 1/2")

Desk (w/3 drawers) and chair

Lamp and wall bracket; 4 rooms

also have ceiling lights

Book shelf

Towel rack and shelf

Mirror and light fixture (no l/f in rms w/ ceiling light)

Washbasin and toilet

In addition, there is one shower located in each 8 room cluster, for a total of 6 showers.

(11) Multipurpose room with alcoves (42' x 38'-4", or approximately 1649.52 sq. ft.) and a separate recreation room (approximately 278.99 sq. ft.) containing:

Windows (Multipurpose Rm):

2 windows, each measuring 12'-6" x 9'-2" divided into 4 vertical sections and 2 horizontal sections

1 window measuring 12'-6" x 7'-2 1/2" divided into 3 vertical sections and 2 horizontal sections

Windows (Recreation Rm):

A 2509

1 window measuring 22'-6" x 3'-4"
divided into 5 vertical sections

22 chairs

13 tables (eating)

1 two-unit mailbox (personal & attorney mail)

3 coffee tables

3 lounge chairs

2 couches

2 pay telephone

2 long distance telephones

2 color T.V.'s

1 medicine ball

1 pool table

1 water fountain

1 jogging machine

2 typewriter

1 exercycle

1 dip bar

1 ping pong table

1 universal weight-lifting machine

1 clothes washer and drier

linen closet

janitorial closet (w/ cleaning equipment)

(iii) Education area with corridor (approximately
919.84 sq. ft.) containing:

blackboard

tack board

1 table

12 school desks

1 exercise board

(iv) Pantry with corridor (approximately 520.78
sq. ft.) containing:

M-1715

A 2510

- 1 serving table
- 1 microwave oven and table
- 1 toaster
- 1 coffee urn (4 unit)
- 1 sink
- 1 drink dispenser (double unit)
- 1 refrigerator/freezer
- 1 ice machine
- 1 counter (w/sink and storage area)
- 1 trash barrel
- 1 fan

(v) Visiting Rm (21'-8" x 19'-1/2", or approximately 415.35 sq. ft.) with adjacent inmate search room, containing:

- 1 window measuring 19' x 3'-4"
divided into 5 vertical sections
- 1 bathroom
- 2 couches
- 9 lounge chairs
- 12 chairs*
- 2 tables
- 3 coffee tables
- 1 water fountain
- curtains
- wall-to-wall carpet

7 South

7 South consists of 6 clusters of 8 rooms each (on two floor levels) for a total of 48 rooms. These room clusters open onto a two-story multipurpose room (see below). Except for individual rooms, bathroom and shower facilities

* Additional chairs, if needed are brought into the visiting room from the unit during visiting hours.

A 2511

and the pantry, all areas of each unit have wall-to-wall carpeting; in the Fall of 1976, the original carpeting was replaced.

(1) Residential Room:

Residential rooms in each cluster open onto a corridor.* The three corridors on the lower level each measure approximately 34'-6" x 10'-0", or 339.35 sq. ft.; the three corridors on the upper level, including stairway landings, measure approximately 38'-2" x 10'-0", or 364.12 sq. ft. The residential rooms have the following dimensions and contain the following furnishings:

<u>No. of Rms</u>	<u>Dimension</u>	<u>Sq. Ft.</u>
24	7'-6" x 11'-6"	75.9
16	7'-8" x 11'-6"	76.99
8	7'-9" x 11'-6"	77.66

Window (22" x 51 1/2")

Bed (w/2 drawers)

Desks (w/3 drawers) and chair

Lamp and wall bracket (44 rooms); ceiling
light (4 rooms)

Towel rack and shelf

Mirror and light fixture

Washbasin and toilet

In addition, there is one shower located in each 8 room cluster, for a total of 6 showers.

(11) Multipurpose room with alcoves (42' x 38'-4", or approximately 1649.52 sq. ft.) and a separate recreation room (approximately 278.99 sq. ft.) containing:

* Each corridor has two windows, each window measuring approximately 17" x 52".

A 2512

Windows (Multipurpose Rm):

- 2 windows, each measuring 12'-6" x 9'-2"
divided into 4 vertical sections and
2 horizontal sections
- 1 window measuring 12'-6" x 7'- 21/2"
divided into 3 vertical sections and
2 horizontal sections

Windows (Recreation Rm):

- 1 window measuring 22'-6" x 3'-4"
divided into 5 vertical sections

41 chairs

12 tables (eating)

2 coffee tables

3 lounge chair

3 couches

2 long distance telephone

2 pay telephones

2 color T.V.'s

1 water fountain

1 jogging machine

1 exercycle

1 medicine ball

1 dip bar

2 typewriter

1 pool table

1 universal weight-lifting machine

1 ping pong table

1 clothes washer and drier

linen closet

janitorial closet (w/ cleaning equipment)

1 two-unit mailbox (personal & attorney mail)

(111) Education area with corridor (approximately

919.84 sq. ft.) containing:

blackboard

M-1715

A 2513

tack board

8
8 school desks

(iv) Pantry with corridor (approximately 520.78
sq. ft.) containing:

1 serving table

1 microwave oven and table

1 toaster

1 coffee urn (double unit)

1 drink dispenser (double unit)

1 refrigerator/freezer

1 ice machine

1 sink

1 condiment table (w/6 unit holders)

1 counter (w/sink and storage area)

1 trash barrel

(v) Visiting Room (21'-8" x 19'-1/2", or approxi-
mately 415.35 sq. ft) with an adjacent inmate search room,
containing:

1 window measuring 19' x 3'-4"

divided into 5 vertical sections

curtains

wall-to-wall carpeting

1 bathroom

1 couch

8 swivel chairs

14 chairs*

3 tables

1 coffee table

1 water fountain

* Additional chairs, if needed, are brought into the
visiting room from the unit during visiting hours.

Administrative and Staff Offices

Adjacent to the education areas on 7 North and 7 South are a total of eight offices used by the Unit Management Team, and for counseling; in addition, 2 bathrooms (washbasin and toilet) are located in this area, one in 7 North and one in 7 South.

NINTH AND TENTH FLOORS

There are two housing units on these floors designated as 9 North and 9 South.

9 North

9 North consists of 6 clusters of 8 rooms each (on two floor levels) for a total of 48 rooms. These room clusters open onto a two-story multipurpose room (see below). Except for individual residential rooms, bathroom and shower facilities and the pantry, all areas of this unit have wall-to-wall carpeting.

(1) Residential Rooms

Residential rooms in each cluster open onto a corridor.* The three corridors on the lower level each measure approximately 34'-6" x 10'-0", or 339.35 sq. ft.; the three corridors on the upper level including stairway landings, measure approximately 38'-2" x 10'-0" or 364.12 sq. ft. The residential rooms have the following dimensions and contain the following furnishings:

<u>No. of Rms.</u>	<u>Dimensions</u>	<u>Sq. Ft.</u>
24	7'-6" x 11'-6"	75.9
16	7'-8" x 11'-6"	76.97
8	7'-9" x 11'-6"	77.66

* Each corridor has two windows, each window measuring approximately 17" x 52".

M-1715

A 2515

Bed (w/2 drawers)

Desk (w/3 drawers) and chair

Lamp and wall bracket (44 rooms); Ceiling
light (4 rooms)

Book shelf

Towel rack and shelf

Mirror and light fixture

Washbasin and toilet

In addition, there is one shower located in each
8 room cluster, for a total of 6 showers.

(ii) Multipurpose room with alcove (42' x 38'-4",
or approximately 549.52 sq. ft.) and a separate recreation
room (approximately 278.99 sq. ft.) containing:

Windows (Multipurpose Rm):

2 windows, each measuring 12'-6" x 9'-2"

divided into 4 vertical sections and

2 horizontal sections

1 window measuring 12'-6" x 7'-2 1/2"

divided into 3 vertical sections and

2 horizontal sections

Windows (Recreation Rm):

1 window measuring 22'-6" x 3'-4"

divided into 5 vertical sections

12 tables (eating)

20 chairs

6 coffee tables

2 couches

2 lounge chairs

M-1715

A 2516

- 2 pay telephones
- 2 long distance telephones
- 1 color T.V.'s
- 1 black and white T.V.
- 1 jogging machine
- 1 typewriter
- 1 medicine ball
- 1 exercycle
- 1 dip bar
- 1 water fountain
- 1 two-unit mailbox (personal and attorney mail)
- 1 universal weight-lifting machine
- 1 pool table
- 1 ping pong table
- 1 clothes washer and drier
- linen closet
- janitorial closet (w/ cleaning equipment)

(iii) Education area with corridor (approximately

919.84 sq. ft.) containing:

- blackboard
- tack board
- table
- 8 school desks

(iv) Pantry with corridor (approximately 520.78

sq. ft.) containing:

- 1 serving table
- 1 microwave oven and table
- 1 drink dispenser (double unit)
- 1 coffee urn (4 unit)
- 1 toaster
- 1 refrigerator/freezer
- 1 sink

M-1715

A 2517

- 1 ice machine
- 1 condiment table (w/6 unit holders)
- 1 counter (w/sink and storage area)
- trash barrels

(v) Visiting Room (21'-8" x 19'-1/2", or approximately 415.35 sq. ft.) with adjacent inmate search room, containing:

- 1 window measuring 19' x 3'-4"
divided into 5 vertical sections
curtains
wall-to-wall carpet
- 7 chairs*
- 2 tables
- 1 couch
- 9 swivel chairs
- 1 bathroom
- 1 water fountain

9 South

9 South consists of 6 clusters of 8 rooms each (on two floor levels) for a total of 48 rooms. These room clusters open onto a two-story multipurpose room (see below). Except for individual rooms, bathroom and shower facilities and the pantry, all areas of this unit have wall-to-wall carpeting.

(1) Residential Rooms:

Residential rooms in each cluster open onto a corridor.** The three corridors on the lower level each measuring approximately 38'-6" x 10'-0", or 339.35 sq. ft.; the three corridors on the upper level, including stairway landings, measure approximately 38'-2" x 10'-0", or 364.12 sq. ft. The residential rooms have the following dimensions and contain the following furnishings:

* Additional chairs, if needed, are brought into the visiting room from the unit during visiting hours.

** Each corridor has two windows, each window measuring approximately 17" x 52".

LC:1nd
M-1715

A 2518

<u>No. of Rms</u>	<u>Dimension</u>	<u>Sq. Ft.</u>
24	7'-6" x 11'-6"	75.9
16	7'-8" x 11'-6"	76.99
8	7'-9" x 11'-6"	77.66

Window (22" x 51 1/2")

bed (w/2 drawers)*

Desk (w/3 drawers) and chair

Ceiling light

Book shelf

Towel rack and shelf

Mirror and light fixture

Washbasin and toilet

In addition, there is one shower located in each 8 room cluster, for a total of 6 showers. Heavy duty security screens have been placed over the windows in 24 of the residential rooms.

(ii) Multipurpose room with alcoves (42' x 38'-4", or approximately 1649.52 sq. ft.) and a separate recreation room (approximately 278.99 sq. ft.):

Windows (Multipurpose Rm):

2 windows, each measuring 12'-6" x 9'-2"

divided into 4 vertical sections and

2 horizontal sections

1 window measuring 12'-6" x 7'-2 1/2"

divided into 3 vertical sections and

2 horizontal sections

Windows (Recreation Rm):

* Except the 8 rooms used for disciplinary segregation which contain a metal-frame bed bolted to the floor; also, the mirror, towel rack and shelf, the desk and chair have been removed. The light fixture over the sink is missing in 7 of the 8 segregation rooms. In addition, the carpeting in the corridor for this 8 - room cluster has been removed and replaced with vinyl tile; one universal weight-lifting machine is located in this cluster for use by inmate in disciplinary segregation.

M-1715

A 2519

1 window measuring 22'-6" x 3'-4"
divided into 5 vertical sections

9 tables (eating)

36 chairs

2 coffee tables

3 couches

1 lounge chair

2 pay telephones

2 long distance telephones

1 color T.V.

1 black white T.V.

1 bookcase

1 water fountain

1 pool table

1 ping pong table

1 jogging machine

1 typewriter

1 medicine ball

1 dip bar

1 exercycle

1 universal weight-lifting machine

1 clothes washer and drier

linen closet

janitorial (w/ cleaning equipment)

1 two unit mailbox (personal and attorney
mail

(iii) Education area with corridor (approximately
919.84 sq. ft.) containing:

tack board

table

13 school desks

(iv) Pantry with corridor (approximately 520.78
sq. ft.) containing:

M-1715

A 2520

- 1 serving table
- 1 microwave oven and table
- 1 drink dispenser (double unit)
- 1 coffee urn (4 unit)
- 1 toaster
- 1 sink
- 1 refrigerator/freezer
- 1 ice machine
- 1 condiment table (w/6 unit holders)
- 1 counter (w/sink and storage areas)
- trash barrels

(v) Visiting Room (21' - 8" x 19' - 1/2", or approximately 415.35 sq. ft.) with an adjacent inmate search room containing:

- 1 window measuring 19' x 3' - 4" divided into 5 vertical sections
- curtains
- wall-to-wall carpeting
- 1 bathroom
- 1 water fountain
- 12 chairs*
- 2 tables
- 4 coffee tables
- 1 couch
- 6 swivel chairs

Administrative and Staff Offices

Adjacent to the education areas on 9 North and 9 South are eight offices used by the Unit Management Team, and for counseling; in addition, two bathrooms (washbasin and toilet) are located in this area, one in 9 North and one in 9 South.

* Additional chairs, if needed, are brought into the visiting room from the unit during visiting hours.

ELEVENTH AND TWELFTH FLOORS

There are two housing units on these floors designated as 11 North and 11 South.

11 South

11 South consists of 6 dormitories (situated on two floor levels) which open onto a two-story multipurpose room (see below). Except for the dormitory rooms, bathroom and shower facilities and the pantry, all areas of the unit have wall-to-wall carpeting; in the Fall of 1976, the original carpeting was replaced.

(1) 6 Dormitory rooms, each having approximately 864.92 sq. ft. of floor space* (basic dimensions 34' x 31'-4") contain:

3 windows, each measuring 4'-6" x 51 1/2"
divided into 2 vertical sections

2 windows measuring 17" x 52"

1 bathroom (dimensions see footnote)

containing:

2 washbasins

1 shower

1 toilet

1 urinal

1 window measuring 4'-6" x 51 1/2"

divided into 2 vertical sections

On January 14, 1977, the following furnishings were in each of the dormitory rooms:

* Exclusive of the bathroom which is approximately 13'-9" x 12'-0 or 165 sq. ft.

A 2522

<u>Dorm.</u>	<u>K</u>	<u>L</u>	<u>M</u>	<u>O</u>	<u>H</u>	<u>J</u>
tables	3	4	3	3	3	3
chairs	18	19	14	9	11	12
bunkbeds	10	10	10	10	10	10
pillows	9	19	17	19	15	17
drawers (under bed)	10	3	5	10	6	5
cabinets	17	19	18	20	20	20
coffee tables	2	1	2	1	1	1

(11) Multipurpose room with alcoves and upper stairway landings (42' x 38'-4", or approximately 1723.83 sq. ft.) and a separate recreation room (approximately 278.99 sq. ft.) containing:

Windows (Multipurpose Rm):

2 windows, each measuring 12'-6" x 9'-2"

divided into 4 vertical sections and
2 horizontal sections

1 window measuring 12'-6" x 7'-2 1/2"

divided into 3 vertical sections and
2 horizontal sections

Windows (Recreation Rm):

1 window measuring 22'-6" x 3'-4"

divided into 5 vertical sections

5 tables (eating)*

29 chairs*

1 coffee table

4 couches

1 exercise bench

4 pay telephones

4 long distance telephones

* On January 14, 1977

A 2523

- 2 color T.V.'s
- 1 water fountain
- 1 bookcase
- 1 pool table
- 1 typewriter
- 1 jogging machine
- 1 universal weight-lifting machine
- 1 exercycle
- 1 medicine ball
- 1 dip bar
- 1 ping pong table
- 1 clothes washer and drier
- linen closet
- janitorial closet (w/cleaning equipment)
- 1 two-unit mailbox (personal and attorney mail)

(iii) Education area with corridor (approximately 919.84 sq. ft.) containing:

- blackboard
- tack board
- table

(iv) Pantry with corridor (approximately 520.78 sq. ft.) containing:

- 1 serving table
- 2 microwave ovens and tables
- 1 toaster
- 1 drink dispenser (double unit)
- 1 coffee urn (4 unit)
- 1 ice machine

A 2524

- 1 sink
- 1 refrigerator/freezer
- 1 counter unit (w/sink and storage area)
- 1 condiment table (w/6 unit holder)
- trash barrels

(v) Visiting Rm (21'-8" x 19'-1/2", or approximately 415.35 sq. ft.) with adjacent inmate search room, containing:

- 1 window 19' x 3'-4"
divided into 5 vertical sections
curtains
- 1 water fountain
- 1 bathroom
- 10 chairs*
- 3 tables
- 1 couch

11 North

11 North consists of 6 clusters of 8 rooms each (on two floor levels) for a total of 48 rooms. These room clusters open onto a two-story multipurpose room (see below). Except for individual rooms, bathroom and shower facilities and the pantry, all areas of the unit have wall-to-wall carpeting; in the fall of 1976, the original carpeting was replaced.

(1) Residential Rooms

Residential rooms in each cluster open onto a corridor.** The three corridors on the lower level each measure approximately 34'-6" x 10'-0", or 339.35 sq. ft.;

* Additional chairs, if needed, are brought in to the visiting room from the unit during visiting hour..

** Each corridor has two windows, each measuring approximately 17" x 52".

A 2525

M-1715

the three corridors on the upper level, including stairway landings, measure approximately 38'-2" x 10'-0", or 364.12 sq. ft. The residential rooms have the following dimensions and contain the following furnishings:

<u>No. of Rms.</u>	<u>Dimensions</u>	<u>Sq. Ft.</u>
24	7'-6" x 11'-6"	75.9
16	7'-8" x 11'-6"	76.99
8	7'-9" x 11'-6"	77.66

window (22" x 51 1/2")

Bed (w/2 drawers)

Desk (w/3 drawers) and chair

Lamp and wall bracket (44 rooms); Ceiling light (4 rooms)

Towel rack and shelf

Book shelf

Mirror and light fixture

Washbasin and toilet

In addition, there is one shower located in each 8 room cluster, for a total of 6 showers.

(11) Multipurpose room with alcoves (42' x 38'-4", or approximately 1649.52 sq. ft.) and a separate recreation room (approximately 278.99 sq. ft.) containing:

Windows (Multipurpose Rm):

2 windows, each measuring 12'-6" x 9'-2"

divided into 4 vertical sections and

2 horizontal sections

1 window measuring 12'-6" x 7'-2 1/2"

divided into 3 vertical sections and

A 2526

2 horizontal sections

Windows (Recreation Rm):

1 window measuring 22'-6" x 3'-4"
divided into 5 vertical sections

10 tables (eating)

21 chairs

3 small round tables

5 couches

3 lounge chairs

2 color T.V.'s

3 pay telephones

2 long distance telephones

1 two-unit mailbox (personal and attorney mail)

1 bookcase

1 pool table

1 ping pong table

2 typewriters

1 jogging machine

1 exercycle

1 dip bar

1 medicine ball

1 universal weight lifting machine

1 water fountain

1 clothes drier*

1 linen closet

janitorial closet (w/cleaning equipment)

* On January 14, 1977, the washer was out for repairs.

A 2527

(iii) Education area with corridor (approximately 919.84 sq. ft.) containing:

- blackboard
- tack board
- school desks

(iv) Pantry with corridor (approximately 520.78 sq. Ft.) containing:

- 1 microwave oven and table
- 1 drink dispenser (double unit)
- 1 coffee urn (4 unit)
- 1 toaster
- 1 refrigerator/freezer
- 1 ice machine
- 1 condiment table (w/6 unit holder)
- 1 counter (w/sink and storage area)
- trash barrels

(v) Visiting Room (21'-8" x 19'-1/2", or approximately 415.35 sq. ft.) with adjacent inmate search room, containing:

- 1 window 19' x 3'-4" divided into
- 5 vertical sections
- curtains
- bathroom
- 1 water fountain
- 14 chairs*
- 3 tables

Administrative and Staff Offices

Adjacent to the education areas on 11 North and 11 South are six offices used by the Unit Management Team, and for counseling; one office is set aside for use by inmates on 11 South and 11 North for legal work. In addition, there are two bathrooms (washbasin and toilet) located in this area, one in 11 North and one in 11 South.

* Additional chairs, if needed, are brought into the visiting room from the unit during visiting hours.

- I-2. The MCC opened on August 2, 1975. Respondents contend that at that time the MCC was designated to house 449 inmates; petitioners contend that at that time, MCC was designed to house 443 inmates.
- I-3. At the time the MCC opened, every residential room was designated to house one person; every dormitory room was designated to house 10 persons. Petitioners contend that every dormitory room was designed to house 9 persons.
- I-4. The MCC Daily Population Log Summary which is a record of the daily population count for each day since August 2, 1975 shall be marked as Exhibit I-4 and deemed incorporated herein. Because of its bulk, this exhibit will not be submitted herewith, but will be available for use by the Court and the parties.
- I-5. (a) At certain times since the MCC opened, some inmates have been required to sleep on cots or beds placed in corridors or common areas in various of the residential units.
- (b) During the period approximately late October 1975 through January 26, 1976, approximately 30 beds were placed in the room which was originally designated as the U.S. Magistrate's Courtroom located on the Third Floor of the MCC and during that time said room was used as a dormitory to house inmates; further, since January 26, 1976, and continuing to the present, said room has not been used to house inmates.

A 2529

I-6

On the occasions when it has been necessary to house inmates on cots or beds placed in corridors or commons areas, it is the MCC policy: (a) to assign inmates there based upon an inmate's expected duration of commitment at MCC (inmates with the shortest expected duration) and an evaluation of the health, security or safety risks posed by an inmates' assignment to such accommodations, and (b) as soon as rooms become vacant, to reassign inmates housed in commons areas or corridors to available rooms based upon length of time in such area (longest first). Petitioners dispute whether this policy is followed.

I-7

The second floor contains a total of 30 residential rooms; 3 clusters of 21 rooms which presently comprise the Honor Unit (See I-1 supra) and 1 cluster of 9 rooms which comprise the Hospital Unit. All four clusters were designated on the final architectural plans as part of the Hospital Unit.

II-1

(a) Individuals assigned to 5 South (women) and the Honor Unit (cadre and pre-release) are locked in their residential rooms only when such individuals are placed under administrative detention or disciplinary segregation.* At all other times, individuals in these units have unrestricted access to all areas (except administrative offices) of the residential units to which they have been assigned, except during the night-time and count lock-in (see (b) below) when inmates in the Honor Unit and 5 South are required to be in their residential rooms.

(b) Individuals assigned to Unit 3 and 5 North are locked in their residential rooms only at the following times:

- (i) 11:00 P.M. to 6:30 A.M. on Sunday and Tuesday through Thursday; 1:30 A.M. to 6:30 A.M. on Friday and Saturday; 11:30 P.M. to 6:30 A.M. on Monday.**

- (ii) Head counts (at 4:00 P.M. and at 7:30 P.M.)

- (iii) When placed under administrative detention or disciplinary segregation.

At all other times, individuals in these units have unrestricted access to all areas (except administrative offices) of the residential units to which they have been assigned.

(c) Individuals assigned to 7 North, 7 South, 9 North, 9 South and 11 North are locked in their residential rooms only at the following times:

* See MCC Policy Statement No. 7400.5D, dated April 5, 1976 for the definition of administrative detention and disciplinary segregation.

** This policy took effect in early February, 1977. Prior to that time, Unit 3 and 5 North followed the same procedure as the Honor Unit and 5 South.

A 2531

- (1) 11:00 P.M. to 6:30 A.M. on Sunday and Tuesday through Thursday; 1:30 A.M. to 6:30 A.M. on Friday and Saturday; 11:30 P.M. to 6:30 A.M. on Monday;

- (11) Head counts (at 4:00 P.M. and at 7:30 P.M.)

- (111) When placed under administrative detention or disciplinary segregation.

At all other times, individuals in these units have unrestricted access to all areas (except administrative offices and the pantry) of the residential units to which they have been assigned.

- (d) Individuals assigned to unit 11 South are locked into their dormitory rooms only at the following times:

- (1) 11:00 P.M. to 6:30 A.M. on Sunday and Tuesday through Thursday; 1:30 A.M. to 6:30 A.M. on Friday and Saturday; 11:30 P.M. to 6:30 A.M. on Monday;

- (11) Head counts (at 4:00 P.M. and at 7:30 P.M.)

- (111) During the time meals are being served;

- (iv) When placed under administrative detention or disciplinary segregation.

- (e) On holidays, the weekend lock-in schedule (1:30 A.M. to 6:30 A.M.) is followed for the units. Inmates at MCC are confined to their residential units except when they have a specific authorized reason to go to some other area of MCC.

II-2

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A 2532

- II-3 Inmates are not permitted to visit other residential units except on special occasions (e.g., special legal visits, entertainment, education, recreation, etc.). Members of the cadre housed in the Honor Unit are permitted some access to 5 North; also, a member of the cadre may visit another unit if his or her job requires such a visit (e.g., newspaper vendor, plumber, etc.).
- II-4 MCC does not contain an auditorium chapel, indoor gymnasium, shops, or industries.
- II-5 Except for members of the cadre, inmates are not permitted to visit the law library or the general library.

III

- III-I The Medical Unit at the MCC generally consists of the following facilities:

I. Second Floor:

A. In-Patient Hospital:

Nine single hospital rooms* each containing:
hospital bed
table (w/drawers)
chair
wall light fixture
washbasin and toilet
towel rack and shelf
mirror and light fixture
window divided in two vertical sections
(8 of 9 rooms)

* One of these rooms (D-229) is equipped for and used, if needed, as an emergency or intensive care room. In addition, adjacent to the Hospital is an isolation room (A-201).
(See I-1 supra.)

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A 2533

Multipurpose room (approximately 10'-1" x 20'-0", or 195.54 sq. ft.) containing:*

- 1 couch
- 3 chairs
- 1 lounge chair
- 2 coffee tables
- 1 table (eating)
- 1 color T.V.
- 2 T.V. tables
- 1 oven and table

Special room (approximately 64 sq. ft.) containing a bath tub.

B. Other Rooms:

- Treatment room
- Examination room
- Physician's office
- Physiotherapy room
- X-ray room and laboratory
- Clinical laboratory
- Pharmacy
- Dental treatment room with separate laboratory
- Dentist's office
- Ophthalmology-optometry room
- Psychiatrist's office
- Clinical psychologist's office
- Hospital Administrator's office
- Ass't Hospital Administrator's office
- Record room
- Waiting room (locked)
- 3 medical storage rooms
- 4 bathrooms (2 male, 2 female)

* A pay telephone and long-distance telephone is located in the Hospital Unit for use by inmates there; this unit also has a jogging machine and exercycle.

III-2

The MCC refers inmates for medical treatment or care in both emergency and non-emergency situations to the following hospitals:

Bellevue Hospital
27 St. and 1st Avenue
New York, New York

Beekman Downtown Hospital
William Street
New York, N.Y.

U.S. Public Health Service Hospital
Staten Island, N. Y.

U.S. Public Health Service
Dental & Medical Clinic
245 West Houston Street
New York, N. Y.

III-3

Normally, a physician is not present at MCC on weekends.

III-4

The dental clinic was able to perform temporary filling work as of September 5, 1975; x-ray and emergency extractions as of January 6, 1976 and routine dental work as of January 23, 1976. The dental clinic became fully operational in February 1976. The dental facilities include the equipment to do complete root canal work.

III-5

The x-ray unit at the MCC was fully operational in April 1976.

III-6

Attached hereto and made a part hereof as Exhibit III-6, is a copy of MCC Policy Statement 37001.2, dated February 2, 1976, entitled Sick Call and Medical-Dental Care. Petitioners dispute whether this policy is followed.

IV

IV-1

The policy of MCC with respect to attorney visits is set forth in Exhibit IV-1 attached hereto and made a part hereof. Petitioners dispute whether this policy is followed.

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IV-2

At certain times, depending upon the number of persons in the visiting room and the vocal level of conversants, conversations between an inmate and his or her attorney or other visitors may be overheard by other persons in the room.

IV-3

Except to the extent that the policy in Exhibit IV-1 is followed, attorney visits are normally conducted in the visiting rooms used for general visiting.

1715

A.

- V-1 There are two visiting rooms on Floors 5, 7, 9, and 11 and one visiting room on Floors 2* and 3. See Stipulation I-1, supra.
- V-2 Since April 12, 1976 it has been the MCC policy that no more than 25 persons (both inmates and visitors) are permitted into a visiting room at one time. Petitioners dispute whether this policy is followed.
- V-3 The visiting rooms do not contain food vending machines. During the week of February 28, 1977 soft drink machines were installed in the visiting rooms on floors 3, 7, 9 and 11; prior to that time the fifth floor visiting area had a soft drink machine.
- V-4 Smoking is not permitted in visiting rooms, although inmates and/or visitors at times do smoke in the visiting rooms.
- V-5 It is the policy of MCC to subject inmates to a strip search, with visual rectal and vaginal examinations, incident to visits.
- V-6 It is the MCC policy that each floor has the following schedule for visiting:
- | | |
|---------------------|---|
| 2nd and 5th Floors | 4:30-7:30 p.m. Monday through Friday |
| | 8:30-11:30 a.m. Saturday and Sunday |
| 9th Floor | 8:30-11:30 a.m. seven days a week |
| 7th and 11th Floors | 12:30-3:30 p.m. seven days a week |
| 3rd Floor | 4:30-7:30 Monday, Wednesday and Friday, or by prior special arrangement |
- Petitioners dispute whether this policy is followed.

* The visiting room on the Second Floor is not used, inmates housed on this floor receive visitors in a 5th Floor visiting room.

1715

- V-7 At the present time, other than during the scheduled visiting hours, including the special attorney visiting hours (4:30 to 6:30 P.M. in the 11th Floor visiting rooms) and certain religious services which are from time-to-time held in the visiting rooms, the visiting rooms are not regularly scheduled for any other activity.
- V-8 Attached hereto as Exhibit V-8 and made a part hereof is a copy of MCC guidelines on visiting, effective as of October 15, 1975. Petitioners dispute whether these guidelines are followed.
- V-9 Inmates are normally permitted to receive visits from only those persons whose names appear on their visiting lists. Inmates are normally permitted to have six names on their visiting lists at one time. It is the MCC policy that inmates are permitted to change or rotate the names on their visiting lists; petitioners dispute whether this policy is followed.
- V-10 Since April 12, 1976, the bathrooms in the visiting rooms have been locked during visiting hours.
- V-11 Prior to a visit, each visitor is searched in the lobby by a magnetometer and some visitors are also patted down.
- V-12 All purses, briefcases, and other belongings of visitors are hand-searched in the lobby prior to a visit.
- V-13 All visitors have their left hand stamped with a phosphorescent identification mark when they register in the lobby for a visit. Each visitor's

A 2538

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M-1 5

hand is then checked for this identification mark when he arrives at the visiting room, before he leaves the visiting room, and before he leaves the lobby. Before an inmate enters the visiting room for a visit, both hands are marked with invisible ink.

B.

V-14 The following number of telephones are located in each residential unit:

<u>Unit</u>	<u>Pay Telephones</u>	<u>Long Distance Telephones</u>
Hospital unit.....1		1
Honor unit.....1		2
3.....2		2
5-N.....2		2
5-S.....2		2
7-N.....2		2
7-S.....2		2
9-N.....2		2
9-S.....2		2
11-N.....3		2
11-S.....4		4

Effective February 14, 1977 each inmate is permitted to draw up to \$5.00 in change per week from his commissary account to use for the telephones; prior to that time the limit was \$4.00 per week.

C.

V-15 Conjugal visits are not permitted at MCC.

V-16 In addition to the windows described in I-1 supra, each residential room at the MCC (except those on 5 South) has a window approximately 4 1/4" x 38" in the door to the room. The doors to the rooms on 5 South do not contain windows.

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- VI-1 There is no citizens' committee to supervise the operation of MCC.
- VI-2 It is the policy of the Bureau of Prisons and MCC that inmate grievances should be resolved in one of three ways: (1) informally, through oral communication of the grievance to a staff member; (2) through the use of an informal written complaint ("cop-put" form) sent to the appropriate staff member; or (3) through a formal written complaint (Administrative Remedy Form or BP-9).
- Petitioners dispute whether this policy is followed.

VI 3

"Cop-outs" are addressed to a particular staff member. The addressee may make a written reply, may speak to the inmate, may refer the matter to a more appropriate staff member for a response or interview, or may, at his discretion, choose not to respond at all.

VI 4

The policy of the Bureau of Prisons and MCC with respect to formal grievance procedures and administrative remedies is set forth in Policy Statement 2001.6A, attached hereto as Exhibit VI-4 and made a part hereof. Petitioners dispute whether this policy is followed.

A 2541
VII

A.

VII-1 MCC has a walled, open-air rooftop recreational area containing a basketball court (full court), a volley ball court, a handball court, a twelve-station weight-lifting machine called a universal gym, and exercise mats.

VII-2 MCC does not have an-indoor gymnasium.

VII-3 In addition to the athletic and recreational equipment described in I-1 and VII-1 supra, the MCC also has playing cards and parlor games on each of the residential units.

B.

VII-4 MCC does not pay the Federal minimum wage to inmates who hold jobs at the MCC.

VII-5 Attached hereto and made a part hereof as Exhibit VII-5 is the monthly inmate payroll, for each month since the MCC opened.

VII-6 Because of an inmate's incarceration he or she may not have the same opportunity during his or her period of incarceration to earn income as he or she did prior to incarceration.

C.

VII-7 Attached hereto and made a part hereof as Exhibits VII-7(a), VII-7(b), and VII-7(c) are Quarterly Reports for the Education and Recreation Department dated March 23, 1976, July 13, 1976 and October 6, 1976, respectively.

A 2542

VIII

- VIII-1 Inmates at MCC are not permitted to conduct research in the law library. As set forth in stipulation II-7, except for the cadre, inmates are not permitted to visit the law library.
- VIII-2 Inmates (except for cadre) must submit a request for a particular book, and then must wait for the book to be sent to them.
- VIII-3 Inmates are not permitted to have their own typewriters to do legal work unless permitted by court order.
- VIII-4 There is at least one typewriter available for inmate use in each unit of MCC.
- VIII-5 It is the MCC policy that inmates may only duplicate papers, including legal papers and correspondence, by asking a staff member or officer to take the papers to be duplicated. Petitioners dispute whether this policy is followed.
- VIII-6 Attached hereto as Exhibit VIII-6 and made a part hereof is a list, as of October 19, 1976, of all books which are included in the law library at MCC.
B.
- VIII-7 Inmates (except the cadre) are not permitted to visit the general library; inmates must submit a request for a book and then must wait for the book to be sent to them.
- VIII-8 Books from the general library are placed on carts or racks in the residential units for use by the inmates there.
- VIII-9 Attached hereto as Exhibit VIII-9 and made a part hereof is a list, as of November 1976, of all hard-back books which are included in the general library of MCC.

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A 2543

VIII-10 The following newspapers are available for
sale to inmates:

New York Daily News

New York Times

El Diario

Amsterdam News

A 2544

X

- X-1 Attached hereto as Exhibits X-1 and X-1(a) and made a part hereof are copies of the English and Spanish versions of "Guidelines for Inmates at the New York Metropolitan Correctional Center.
- X-2 The rules, penalties, and procedures pertaining to inmate discipline are set forth in Policy Statement 7400.5D attached hereto as Exhibit X-2 and made a part hereof. Petitioners dispute whether this policy is followed.

A 2545
XI

SI-1

On some occasions the correctional staff in residential units housing a non-English speaking inmate does not speak the language of one or more of such non-English speaking inmates in that unit.

XII-1 At certain times, pretrial detainees are being, and have been, housed in the same residential unit at MCC with post-conviction inmates.

XII-2 As of August 2, 1975, the MCC policy regarding assignment of inmates to residential units was as follows:

<u>Unit</u>	<u>Designation</u>
Hospital (9-bed unit)	As needed
Other Residential Rm Clusters (2d Floor)	Undetermined
3	Protective custody
5 South	Women
5 North	Cadre
7 South	Writ
7 North	Writ
9 South	Maximum security; administrative deten- tion; disciplinary segregation
9 North	Post-conviction
11 South	Pre-trial detainees
11 North	Pre-trial detainees

As of March 3, 1976, the MCC policy regarding assignment of inmates to residential units was changed as follows:

<u>Unit</u>	<u>Designation</u>
Hospital (9-bed unit)	As needed
Honor Unit (2d Floor)	Cadre* and pre-release
3	Protective custody
5 South	Women
5 North	Cadre and undesignated volunteer workers

* Designated as such as of September 30, 1975.

A 2547

Unit

Designation

7 South

Pre-trial detainees

7 North

Pre-trial detainees

9 South

Maximum security;
administrative deten-
tion; disciplinary
segregation

9 North

Pre-trial detainees

11 South

Writ and other

Sentenced

11 North

Sentenced, parole
violation and writ

Petitioners dispute whether this policy is followed.

A 2548
XIII

- XIII-1 Searches of the persons and rooms of the inmates at MCC are carried out at irregular intervals.
- XIII-2 Inmates are not always permitted to observe searches of their rooms. During a formal unit shakedown, when a particular portion of a residential unit is cleared of inmates and a search is conducted, inmates are not permitted to watch searches of their rooms; during the less formal searches which are conducted more often, correctional officers have the discretion to permit the inmate to stand at the doorway of his room to observe the search.
- XIII-3 The Bureau of Prisons and MCC definition of contraband is contained in paragraph 702 of the Custodial Manual, Policy Statement 20001.1B which provides as follows:

702. CONTRABAND

1. Contraband may be best defined as any item or article inside an institution that was not issued by the institution, purchased in the commissary, purchased through approved channels or approved for issue by an appropriate staff member. Authorized items may be considered contraband when found in excess quantities, or altered from original status.
2. The following items shall always be considered contraband, within any federal penal or correctional institutions:
 - a. Guns and firearms of any type.
 - b. Ammunition, explosives.
 - c. Knives and tools not provided in accordance with this manual.
 - d. Hazardous and poisonous chemicals and gases.
 - e. Narcotics and drugs. These can be dispensed and in the possession of offenders only as authorized by the institution medical department.
 - f. Intoxicants, such as liquor and alcoholic beverages.
 - g. Currency, where prohibited.

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Ind
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XIII-4

It is the policy at MCC that contraband which is seized, except for currency, is turned over to the Chief Correctional Supervisor and is thereafter destroyed under his supervision, currency is deposited in a Miscellaneous Fund maintained by the Department of the Treasury. Petitioners dispute whether this policy is followed.

XIV-1

(a) Inmates at MCC are normally not permitted to bring or receive packages, including food packages or personal effects, from outside the institution except that during the Christmas holiday season, each inmate is permitted to receive one package from outside the institution. In addition, on certain Jewish holidays, Jewish inmates are permitted to have special foods brought to the institution.

(b) Inmates are permitted to have any items specifically authorized by the Unit Manager, Case Worker or Chief Correctional Supervisor.

XIV-2

Inmates are not normally permitted to have electric shavers or personal typewriters.

XIV-3

Inmates are prohibited from spending more than \$15 per week up to \$50 per month at the commissary (except as noted on the commissary list, see Exhibit XIV-4). Prior to December 1, 1976, the limit on monthly commissary purchases increases to \$45.00.

XIV-4

Inmates are not permitted to visit the commissary which is located in the basement. Rather, once a week inmates are permitted to order items from a commissary list. Attached hereto and made a part hereof as Exhibit XIV-4 are copies of commissary lists dated August 15, 1975, March 1, 1976 and the current commissary list. Petitioners dispute whether all the items on these lists are available for purchase. For certain items (such as watches, radios, etc.) it is the MCC policy to post a picture and literature describing the item in the units. Petitioners dispute whether this policy is followed.

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XIV-5

It the MCC policy that checks or money order for an inmate's commissary account are endorsed by the MCC, outside the presence of the inmate, and posted to the inmate's commissary account; a receipt for each such transaction is given to the inmate. Petitioners dispute whether this policy is followed.

XV

It is the MCC policy that:

XV-1

- a. The residential units are cleaned on a daily basis.
- b. Each inmate is responsible for and required to maintain his or her immediate sleeping area in acceptable cleanliness and appearance.
- c. The common areas of each residential unit are cleaned and maintained by a sanitation crew consisting of inmates from each of the residential units.
- d. The residential units are inspected for cleanliness and general sanitation once a week (or more often if necessary) by the MCC Safety Director.

Petitioners dispute whether this policy is followed.

XV-2.

It is the policy of the MCC that all inmates upon entering the MCC, are issued free of charge a supply of toothpaste, soap, toilet paper, shaving cream, a razor, razor blades, a comb and a toothbrush. In addition, female inmates are issued sanitary napkins, a feminine hygienic syringe and douche powder. All of the above items are thereafter issued on an "as needed" basis and at no cost to the inmate. Petitioners dispute whether this policy is followed.

XV-3.

It is the policy of the MCC that all inmates, upon entering the MCC, are issued two sheets, one pillowcase, one towel, one blanket and one washcloth. Inmates are given a fresh supply of all these items (except the blanket) on a weekly basis. Petitioners dispute whether this policy is followed.

LCC:jw
E-1715

A 2553

XV-4

The MCC does not have a licensed barber service; five hair grooming kits are available (one on each floor) for use by inmates.

- XVI-1. The MCC policy is to issue the following items (and quantity) of clothing at the time (or shortly thereafter) an individual is admitted to the institution:

<u>Item</u>	<u>Quantity</u>
Jumpsuit	3
Athletic shoes(or leather shoes)*1 pair	
Underwear - men	
T-shirts	3
Boxer shorts	3
Underwear - women	
Brassieres	3
Underpants	3
Other items for women	
Sweater	1
Nightgowns	3
Bathrobe	1

Petitioners dispute whether this policy is followed.

- XVI-2. Inmates are generally not permitted to wear their own clothing at the MCC, and are required to wear a one-piece jumpsuit.
- XVI-3. The jumpsuit uniforms and other items of clothing are obtained by competitive bidding or under a General Service Administration ("GSA") contract.

* Inmates are permitted to keep their own shoes rather than accept shoes from the MCC.

- XVII-1 Menus for the periods January 18, 1976 through February 25, 1976 and May 1 through June 15, 1976 are attached hereto and made a part hereof as Exhibit XVII-1. Petitioners dispute whether these menus were followed.
- XVII-2 It is the MCC policy that all employees of the Bureau of Prisons working in food services at the MCC have been given a medical examination by the United States. Petitioners dispute whether this policy is followed.
- XVII-3 It is the policy at the MCC that all inmates who work in the kitchen are interviewed by the MCC Food Service Administrator. The MCC Food Service Administrator is responsible for maintaining cleanliness and sanitary conditions in the kitchen. All kitchen personnel are required to wear clean attire at all times. Cooking personnel are required to wear caps and, when they are mixing foods by hand, plastic gloves. The MCC Food Service Administrator has access to additional clean uniforms for use by kitchen personnel should the situation warrant. Petitioners dispute whether this policy is followed.

LCC:jw
M-1715

A 2556
XVIII

- XVIII-1 Each area and each room (including residential rooms) has two ventilation ducts -- a supply duct and an exhaust or return duct.
- XVIII-2 There are no open windows at the MCC.

LGC:jw
M-4715

A 2557
XIX

XIX-1

Attached hereto and made a part hereof as Exhibits XIX-1 and XIX-1a are copies of MCC Policy Statement 7300.12, dated ^{April 30, 1976} ~~October 20, 1975~~, and Bureau of Prisons Policy Statement 7300.12D, dated March 19, 1976, regarding inmate furloughs. Petitioners dispute whether these policies are followed.

LCC:jw
9-1715

A 2558

XX

- XX-1 MCC contains no central chapel or central auditorium.
- XX-2 Bureau of Prison and MCC policy with respect to kosher food is set forth in Policy Statement 22001.2, dated ^{July 12, 1976} ~~May 25, 1976~~, a copy of which is attached hereto and made a part hereof as Exhibit XX-2. Petitioners dispute whether this policy is followed.
- XX-3 Annexed hereto and made a part hereof as Exhibit XX-3 and XX-3a are memoranda and schedules dated September 17, 1976 and December 13, 1976 (as revised by memorandum dated December 20, 1976) setting forth the religious program for Jewish inmates at the MCC for Selichot, Rosh Hashanah and Yom Kippur and Chanukah. Petitioners dispute whether these schedules were followed.

GC:jw
M-1715

A 2559
XXI

XXII

- XXII-1 The MCC policy is to assign and designate an inmate for transfer to a particular correctional institution within 1 or 2 days of the date on which the inmate receives the inmate's Judgment and Commitment from the sentencing court. Petitioners dispute whether this policy is followed.
- XXII-2 After assignment and designation of an inmate as described in XXII-1 supra, it is the MCC policy to transport the inmate (if not assigned to and designated for the MCC) to the designated institution at the earliest possible time. Petitioners dispute whether this policy is followed.
- XXII-3 As of May 11, 1976, the Bureau of Prisons assigned to the MCC and commenced operating a 22-seat bus; in December, 1976 a 28-seat bus replaced this bus. This bus is used by the MCC to transport inmates between the MCC and other federal correctional institutions; the weekly schedule and route for this bus is annexed hereto as Exhibit XXII-3.
- XXII-4 The "MCC Daily Population Log-Commitments" and the "MCC Daily Population Log-Discharges" sets forth the number of individuals and discharged from the MCC for each day since the MCC opened. Because of their bulk, these logs will not be physically submitted herewith, but will be marked as Exhibit XXII-4 and XXII-4a and will be deemed part hereof. They will remain available for use by the Court and the parties.

A 2561

XXIII

XXIII-1 (a) Floor 7, Floor 9 and Floor 11 each have assigned to it a unit team consisting of a unit manager, counselor, caseworker and secretary. The unit team's offices are ^{divided between the two} ~~located in the~~ residential units ^{on each floor} (see I-1 supra).

(b) Floor 5 has a caseworker and counselor whose offices are located in the residential unit (see I-1 supra). The unit manager for Floor 5 is also the unit manager for the Honor Unit; the unit manager's office is located in this residential unit (Unit 5). The unit secretary (located in Unit 5) is also assigned to the Honor Unit.

(c) In addition to the unit manager and secretary described in (b) supra, Unit 3 and the Honor Unit, combined, have one counselor and one caseworker; their offices are located in the area adjacent to Unit 3.

XXIII-2 (a) Floor 5, Floor 7, Floor 9 and Floor 11 each have two correctional officers 16 hours a day (one officer per unit); one correctional officer is assigned to each of these floors during the remaining 8 hours (morning watch).

(b) Unit 3 has one correctional officer 24 hours a day.

(c) Honor Unit has one correctional officer on day shift only.

XXIII-3 The MCC has one Community Program Officer available to inmates.

A 2562

Dated: New York, New York

March 12, 1977

**ROBERT B. FISKE, JR.
United States Attorney
Southern District of New York
Attorney for Respondents**

By: /s/

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The Legal Aid Society
Attorney for Petitioners**

By: /s/

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Federal Defendant Services Unit
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(212) 732-2971**

Exh v-8

A 2563

UNITED STATES DEPARTMENT OF JUSTICE
METROPOLITAN CORRECTIONAL CENTER

150 Park Row

Effective
Oct 5/1971

1. LOCATION OF M.C.C.

The Metropolitan Correctional Center is located in lower Manhattan, near the United States Courthouse in an area known as Foley Square. Subways and buses provide adequate transportation to the immediate area. There are no institution parking facilities. A receptionist will direct you to the elevators and the appropriate floor where you will visit.

2. VISITING HOURS

The Metropolitan Correctional Center will make every effort to provide the maximum opportunity for inmates to visit with their families, for Attorneys to confer with their clients, and for appropriate agency personnel to visit inmates.

Because of limited visiting space and operational priorities, we must place some limits on the number and lengths of visits. In an effort to make maximum use of limited space, we have developed the following schedule. Based on past experience, we hope this schedule will allow us to get you to the visiting room faster and provide you with a more leisurely visit. The person you are visiting should advise you of his or her floor assignment, so you'll know where to visit.

Phone #791-9130

- a) FIFTH FLOOR (5th) Unit Manager - Mrs. Scozzari - Ext. 474 - 293 - 294
4:30 P.M. to 7:30 P.M. daily. 8:30 A.M. to 11:30 A.M.
week-ends and holidays.
- b) SEVENTH FLOOR (7th) Unit Manager - Mr. Haney - Ext. 305 - 306 - 480
12:30 to 3:30 P.M. daily 7 days a week
- c) NINTH FLOOR (9th) Unit Manager - Mr. Echeandia - Ext. 339- 340 - 491
8:30 A.M. to 11:30 A.M. daily seven days a week.
- d) ELEVENTH FLOOR (11th) Unit Manager - Mr. Matthews - Ext. 348 - 349 - 49
12:30 P.M. to 3:30 P.M. daily. 7 days a week.

3. VISITING LIMITATIONS

It may be occasionally necessary to terminate visits when overcrowding occurs. Under normal circumstances, each person at the M.C.C. may receive up to three visits per week for a maximum period of three hours. Special visits may be arranged through the Unit Manager, when it is determined that a visit is necessary during other than regular visiting hours. Arrangements should be made through the Unit Manager and the person being visited.

We hope you enjoy your visit at the M.C.C. If you have any question, please bring them to our attention.

Exh v-8

4. ATTORNEY VISITS

Attorneys are encouraged to visit their clients between 4:30 P.M. and 6:30 P.M. daily. Special arrangements have been made for Attorney conferences on the 9th Floor. Attorneys may also visit their clients, using the same hours and accommodations afforded families. Attorneys requesting visits at other times must contact the Unit Manager or Case Manager to make the necessary arrangements.

5. VISITING REGULATIONS

For the comfort of all visitors, we request your cooperation in the following areas. Couples may embrace at the beginning of the visit and upon its conclusion. We ask that inappropriate physical contact be avoided during the visit. We also ask that parents or guardians be responsible for the conduct and actions of children. In respect for the rights of non-smokers, we request that all persons avoid smoking in elevators and visiting areas. Disagreements with regulations should be taken up with the Administration either by phone or letter. Rude or inappropriate conduct should be avoided in the visiting rooms. Failure to comply with this request could result in a loss of visiting privileges.

6. ARTICLES AND MONEY IN VISITING AREAS

No articles or money may be given directly to the person your visiting. Visitors may deposit funds (American currency only) for an inmate's account with the visiting room officer. No other items will be accepted. Money sent by mail should be in the form of U. S. Postal Money Orders. Articles such as books, magazines, newspapers will not be accepted from visitors. These items must be mailed directly from the publisher or place of purchase.

7. TRAFFIC IN CONTRABAND ARTICLES

For your convenience and protection against loss of personal property, we'd appreciate it if you'd not bring food, drugs, knives or other device used for self-protection to the institution. Visitors will be asked to walk through a detector before visiting the floor. All handbags and containers are subject to inspection by an x-ray machine. Visitors who attempt to introduce any unlawful articles into this institution, or attempt to smuggle articles from the institution may be prosecuted under Federal Laws. "Whoever, contrary to any rule or regulation promulgated by the Attorney General, introduces or attempts to introduce into or upon the grounds of any Federal, penal or correctional institution, or takes or attempts to take or send therefrom anything whatsoever shall be imprisoned not more than ten years- Title 18, U.S.C., Sec. 1791, C. 87." Food items or beverages are not permitted in the institution. If you have any questions regarding visiting procedures, please feel free to ask the lobby officer or Receptionist for inform-

Exh VI-4
A 2565

BUREAU OF PRISONS

WASHINGTON, D. C. 20537

Policy Statement

2001.6A

SUBJECT: ADMINISTRATIVE REMEDY OF COMPLAINTS
INITIATED BY OFFENDERS IN BUREAU OF
PRISONS FACILITIES

10-18-74

1. PURPOSE. This Policy Statement authorizes procedures by which offenders may seek formal review of complaints which relate to their imprisonment if informal procedures have not resolved the matter. It establishes the Regional Office as the initial level of appeal from institution determination.
2. DIRECTIVES AFFECTED. Policy Statement 2001.6 and Operations Memorandum 2001.1 on this subject are superseded.
3. DISCUSSION. Most complaints can be resolved quickly and efficiently through direct contact with staff who are responsible in the particular area of the problem. This is the preferred course of action. Staff awareness of the importance of prompt attention and reply to these routine requests will minimize the use of formal complaint procedures.

A viable complaint procedure will serve the offenders, the administration, and the courts. It will provide the offenders with a systematic procedure whereby issues raised relating to their confinement will receive attention and a written, signed response within a short period of time from the local administration, and from the Regional Office and the Central Office, if appealed.

Such a procedure assists the administration by providing an additional vehicle for internal solution of problems at the level having most direct contact with the offender. It also provides a means for continuous review of administrative decisions and policies. Further, it provides a written record in the event of subsequent judicial or administrative review. A viable Administrative Remedy Procedure should reduce the volume of suits filed in court and will develop an undisputed record of facts which will enable the courts to make more speedy dispositions.

Use of the Administrative Remedy Procedure is the proper avenue of appeal from disposition of the Institution Discipline Committee or from minor disciplinary actions (Policy Statement 7400.5C).

If the offender cannot resolve his complaint informally, and wishes to utilize this Administrative Remedy Procedure, he shall file his complaint with the Warden or his designee. If not satisfied with the institution's reply, he may appeal to the Regional Director. If he is not satisfied with the Regional Director's response, he may appeal to the Assistant Director, General Counsel and Review.

Exh VI-4

An offender may, if he chooses, forward his complaint through the Prisoners' Mail Box or he may file his law suit directly with the appropriate court. However, courts frequently require evidence that administrative remedies have been exhausted before ruling on a complaint, and offenders should be so advised.

4. ACTION. The Chief Executive Officer of each Bureau of Prisons facility is responsible for the establishment and monitoring of an Administrative Remedy Procedure which is compatible with the provisions of this Policy Statement. The operation of the program will be the responsibility of the Warden or the Associate Warden. The investigation of complaints and the drafting of the reply should ordinarily be done by department heads or their representatives, subject to review of the Warden or Associate Warden. The final response shall be signed by both the department head or his representative, and the reviewer. Response to complaints regarding dispositions of the Institution Disciplinary Committee must be signed by the Chief Executive Officer of the institution.

Each Regional Director is responsible for establishing in the Regional Office a procedure for review and response to appeals submitted under this procedure. While the investigation of the complaint may be conducted by the appropriate Regional Office staff member designated by the Regional Director, the typed response (Part B) of form BP-DIR-10 must be signed by the Regional Director.

5. PROCEDURES. All offenders should be advised of this Administrative Remedy Procedure. This can be accomplished, among other means, by posting the local Policy Statement on inmate bulletin boards, through inmate publications and by including it in the admission-orientation program. Where appropriate, the local Policy Statement should be translated into Spanish.

It is suggested that the forms be maintained by the Correctional Counselors wherever practicable. Experience has demonstrated that complaints can frequently be resolved by the counselor.

Institutions shall maintain a monthly log of complaints filed under this procedure. The attached institution log sheet should be locally reproduced and used for this purpose. At the beginning of each month, a copy of the completed log for the two previous months should be sent to the Regional Director and to the Central Office, Office of General Counsel and Review.

Regional Offices shall maintain a monthly log of appeals filed under this procedure. The attached regional log should be reproduced locally and used for this purpose. At the beginning of each month, a copy of the Regional Office log for the previous two months should be forwarded to the Central Office, Office of General Counsel and Review.

The following Subject Codes will be used in the logs to describe the subject of the complaint. If more than one subject is raised, use the single code which best describes the principal complaint.

A 2567

SUBJECT CODES

1. Transfer - excluding CTCs
2. Institutional Program Assignment - generally, including custody, MSA
3. Community Communications - including mail, visits, phone
4. Community Programs - including CTCs, furloughs
5. Disciplinary Matters - generally, including segregation, loss of good time
6. Institution Operations - generally, including food, clothing, sanitation, personal property. Does not include subjects described better in categories 2, 3, or 5.
7. Medical
8. Legal - generally, including jail time, detainers, sentence computation
9. Parole - generally, including parole reports, release plans
10. Complaints Against Staff
11. Other - specify

6. USE OF THE COMPLAINT FORM. If an offender cannot resolve his complaint through informal contact with staff, and wishes to file a formal complaint for administrative remedy, he should secure a copy of form BP-DIR-9 and write his complaint in the space provided. He may obtain assistance from other offenders or from staff to help him complete the form. The offender should then give the completed form to the designated staff member who in turn will provide a signed receipt for him. Distribution of the copies of each form is noted on each page.

The complaint ordinarily must be filed within 30 days from the date on which the basis of the complaint occurred unless it was not feasible to file within such period. Institution staff have up to 15 days from receipt of the complaint, excluding week-ends and holidays, to act upon the matter and provide a written response to the offender. When the complaint is of an emergency nature and threatens the offender's immediate health or welfare, reply must be made as soon as possible, and within 48 hours from receipt of the complaint. The institution duty officer may be utilized in such instances.

When the proper course of action is determined, the "Response" (Part B) should be completed and signed. One copy should go to his central file, and original and other two copies given to the offender. Responses should be made as quickly as possible, should be based upon facts which pertain specifically to the issue, and should deal only with the issue raised, and not include extraneous material.

A 2568

If an offender is not satisfied with the institution's response, he may file an appeal to the Regional Director, Bureau of Prisons, through the Prisoners' Mail Box within 30 days of receipt of the Warden's response. This should be done on form BP-DIR-10 and must include a completed copy of BP-DIR-9 (the initial complaint) with the institution's response. A receipt for his appeal will be sent to the offender by the Regional Director, who will then reply within 20 days from receipt of the appeal, excluding week-ends and holidays.

If the offender is not satisfied with the reply from the Regional Director, he may file a further appeal to the Assistant Director, Office of General Counsel and Review, Bureau of Prisons, through the Prisoners' Mail Box within 30 days of receipt of the Regional Director's response. This should be done on form BP-DIR-11, and must include a completed copy of both the form BP-DIR-9 (the original complaint) and the form BP-DIR-10 (appeal to the Regional Director). A receipt for this appeal will be sent to the offender and within 20 days from that date, excluding week-ends and holidays, a reply will be made.

If an offenders' complaint is of a sensitive nature, and he reasonably believes he would be adversely affected if it is known at the institution that he is making the complaint, he may file it directly with the Regional Director, Bureau of Prisons through the Prisoners' Mail Box. In such cases, he must clearly explain the reason for not filing in the institution. The Regional Office will send the offender a receipt, and reply in 20 days, excluding week-ends and holidays.

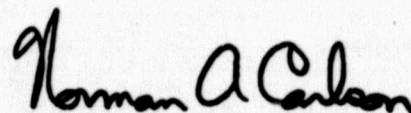
If the time limit expires without a reply, it will be deemed to be a denial of the request. If dissatisfied with the response to his complaint and appeals, the offender is free to file suit in an appropriate court and attach documentary proof that he exhausted his administrative remedy.

7. EXCEPTIONS. Nothing in this Policy Statement should be construed to affect in any way, the separate procedure established pursuant to the Federal Tort Claims Act, or the Claims for Inmate Injury Compensation under 18, USC, 4126.

The period of time referred to for action by the reviewing officials may be extended for a like period upon a finding that the circumstances are such that the initial period is insufficient to make an appropriate decision. This must be communicated in writing to the offender.

8. LOCAL ISSUANCE. The head of each Bureau of Prisons facility will revise his local Policy Statement on this subject to incorporate these changes, and forward a completed copy to his respective Regional Office and to the Office of General Counsel and Review.

9. THIS POLICY IS EFFECTIVE NOVEMBER 1, 1974.


NORMAN A. CARLSON
Director, Bureau of Prisons

BP-DIR-104

1074

Month

Year

**BUREAU OF PRISONS
ADMINISTRATIVE REMEDY PROCEDURE
REGIONAL APPEALS
MONTHLY LOG**

Attachment 2 2001.6A 10-18-74

Region

[illegible]

A 2569

BUREAU OF PRISONS
ADMINISTRATIVE REMEDY PROCEDURE
INSTITUTION MONTHLY LOG

BP-01R- 103
10/74

Month _____ Year _____

Institution

+ Inmate's Favor
- Against Inmate
0 Other Disposition

[illegible]

A 2570

A 2571

March 23, 1976

To : Warden Taylor
From : R. Harris, Education Specialist
Subject : Quarterly Report

1. - Confirmed this quarter that Advar Video Inc. of New York has been awarded the contract to install the closed circuit educational television delivery system. Actual work on the project will begin prior to the end of March. Completion expected by June 1.
2. - Confirmed that our college program (in-house) will begin in September. Empire State College will provide this institution with one full time Mentor/Coordinator to accept, screen and contract with residents to provide tutors and, generally coordinate a college education for qualified MCC residents - not to exceed 30 at any time during the year.
3. - GED program has processed 24 students this quarter, with 12 presently active. Four High School Equivalency diplomas have been awarded. Average class attendance has been 13. In conjunction with our tutor assignment program, 15 tutors have been assigned this quarter with eight presently active.
4. - Adult Basic Education program has processed 71 students, with 40 presently active. 12 have passed the New York State Minimum Competence Examination. Average class attendance has been 41 per month. In conjunction with our tutor assignment program 10 tutors have been assigned this quarter with 8 presently active. 18 ABE students have been referred to the GED program.
5. - English as a Second Language program has processed 108 student with 42 presently active. The balance have since left the institution or have gone on to ABE. Average daily attendance has been 39, while the average monthly standard of attendance has been 38.
6. - Creative Writing Workshop, presently serving Unit 5 originally started out with two, two-hour sessions on Units 11 and 5 respectively and subsidized by Hospital Audiences Inc. Poor support on Unit 11 caused cancellation on that floor and gave 5 two, two-hour sessions. Difficulties between the instructor and HAI arising out of salary disputes caused cancellation of this program for one month. Resumption of course on 5 took place in March with Daniella Gioseffi (also our Dance Workshop as coordinator. Average attendance has been 11.

Exh VII-7(a)

7. - Human Sexuality and Family Dynamics is taught on the 5th floor on Tuesday evenings for two hours per week. Instructed by Patricia North of the Graduate School of Community Health at Hunter College, this program aims at providing a better understanding of the processes, both physical and emotional, surrounding human development. Concepts such as personal responsibility, parental roles, family planning and genetic counselling are other significant areas considered.
8. - Life Skills is taught to our pre-release population on Wednesday evenings for two hours by Ms. Phyllis Shatsky of Title VI Adult Education, a branch of the office of Career Education of the N.Y.C. Board of Education. Topics covered include "Who am I and where do I want to go?", "Occupational Fields, How do I explore them?", "Developing a Vocational Plan", "Looking goes on paper", "The Job Interview, How to be Effective" plus six others. Average attendance has been to 23. Referrals are made to relevant agencies and individuals and research work is encouraged.
9. - Fine Arts Workshops are taught on 5, 7, 9, and 11. Oil and acrylic techniques are explored. 120 students have participated during this quarter with 65 presently active. Classes are two hours in duration. Hospital Audiences Inc. provides the instructor and most supplies.
10. - General Art Workshops are offered on units 5, 7, 9, and 11. Special projects, pastels, ra-pas and other media are employed. 82 students have participated during this quarter with 38 presently active.
11. - Sculpture Workshop meets once per week in the Media Room on the second floor. Participants are from units 2, 5N and 5S, and are escorted to and from the class by the Recreation Officer. 47 students have been involved during this quarter with 21 presently active. Instructor provided by the Black Emergency Cultural Coalition.
12. - Dance Workshop is held every Saturday on the Womens Unit (5S) for two hours. Instructor provided by Hospital Audiences Inc. 12 residents have participated through this quarter with 6 presently active. Aspects of modern and interpretive dance are explored.
13. - A program in Health Education is presently being coordinated through the Graduate Community Health Program of Hunter College. Training for interested residents will be provided in the area of blood pressure determination, audiometry and visual competency so that basic diagnoses and referrals can be made while also increasing general awareness of the need for one's own interest in his/her continued good health.

14. - The Salvation Army Correctional Services Division and this department have created a program which is presently 11/2 months old involving two of their counselors who visit the MCC each Wednesday and interview residents from each unit who are referred to them by their case managers based on identifiable needs. Areas covered for service extend from outside family related problems, to grief processing to pre-release preparation to closing up an individuals apartment after having been arrested. At present, 17 individuals are involved in the program.

15. - Inmate Law Library is organized on a request basis with the use of separate " Law Library " request forms due to the unpredictable availability of traditional cop-outs.

a. Inmate Request Filled - 73 (for quarter) - where possible, xerox copies of the relevant section of the law is delivered to residents. This keeps our books available for others to use. Records kept since 3/15 indicate 6 transactions of that nature since then, Estd. 20 since Jan 1.

b. Inmate Request for Brief Copies and Writs of Habeas Corpus. After approval of Unit Mgrs. and AW (O) copies are made for residents. No record kept until 3/15 since no charge out of legal materials has been made. 6 since 3/15, estd. service since Jan 1, - 15

c. Breakdown for separate 3rd floor use is inclusive above although not specifically since all legal materials are charged to UM, Case Mgr or Counselor.

Law Library has been moved to the 2nd floor for greater contro
This move has worked out quite well in such greater efficiency

L. Taylor, Warden

March 24, 1976

D. Edna David, Recreation Specialist

Quarterly Report: January 1, 1976 through Present

1. The following programs were covered in the Education Quarterly Report:
 - General Art
 - Fine Art
 - Dance Workshop
 - Sculpture Workshop
 - Creative Writing Workshop
2. Theatre and Sports Events - Tickets for the theatre and sports events are supplied by Hospital Audiences, Inc.. Number of participants depend upon available tickets. Trips so far include The Theatre De Lys - "Cracks" by Martin Sherman, Drama Committee Repertory Theatre - "Luncheon and Smoke" by Tennessee Williams, and the A.A.U. Track meet at Madison Square Garden. Security/Escort coverage was provided by Mrs. Edna David, Recreation Specialist, until recently when volunteers were recruited. Average show lasts two hours.
3. Tournaments - Approximately two weeks - includes registration, playoffs and finals. Awards are provided by the Recreation Department and given out by Mr. J. E. Johnson, A.W.(P). Tournaments are conducted on major holidays for the entire population. Competition is encouraged between individuals, units and floors. Prizes are trophy cups, individual trophies, floor trophies and appropriate second place prizes, such as key chains for male contestants, and a trophy for the overall winner. Tournaments are held on Washington's Birthday. Average participants per unit-fifteen (15)
4. Bingo - Approximately 45-minutes or until at least four-(4) games are won. Held once a month on each unit with prizes provided by the Recreation Dept. There is very good participation. Bingo is held on Friday evenings .
5. Disco - Held every Saturday night for 5-North, 5-South and the 2nd floor. One hour session provides the latest in dance music. It is co-ed and participation is good. Disco will be discontinued starting April 11th. because of lack of coverage and equipment.

D. Edna David, Rec. Spec.

March 24, 1976

Quarterly Report, cont.

6. Casual Music - Approximately (1) hour for the 7th, 9th, and 11th floors. Had very good participation. Music was played by request. Discontinued because of lack of equipment.

Equipment and music was supplied by a former inmate, Wes Murphy who has been released.

7. Inmate (Traveling) Basketball Team - Basketball team now has nine members, fully outfitted with uniforms supplied by the Recreation Dept. Practice is held every Thursday, from 9am to 12pm at the P.A.L. Duncan center in New York. The team has played one in-house game against 7-South (tournament winners) and won 60 - 50. There is a pending game against the M.C.C. officer's team. This department is now in the process of trying to schedule other games with other institutions and teams. They had a scrimmage against the Duncan Center team (all policemen) on March 25th, 1976 during practice. Attendance is 100%. M.C.C. was victorious by a score of 88 to 82.

8. Outside Entertainment - Started in October, 1975 and was well received. The following entertainers have performed since that date:

Friends of Finesse, with Miss New Jersey, - 2 hours - 5th floor.
Miss Esther Marrow, (Star of the Wiz),
Charlie Brown Quintet and Robin Kenyatta, sax. 4 hrs. 9th, 11th Fl.

Turner Hall Cosmetic - Beauty clinic and hair care
Press coverage (Daily News) 2 hours 5 South

John Manning Quintet - 2 hours 7th, 5th fl.

Jack D. Johns from Boston, Mass. - 2 hours 7th, 5th fl.

Sam Ash Music Stores (David Bridges) with dancers 1 1/2 hrs. 5th, 2nd fl.

Latin show, Hector Gonzalez - 1 1/2 hrs, 11th fl.

Tito Puente and Joe Cuba with Pete Bonet - 2 hours, 11th fl.

Miss Esther Marrow, Star of the Wiz, Charlie Brown Quintet - 3 hrs. 7th and 5th fl.

Turner Hall Cosmetic Co. 1 - 2 1/2 hrs. 5-South

John Douglas Glee Club Christmas Caroling - 5-hours, all floors.

MBO ACCOUNTABILITY:

In keeping with our policy of assessment of program effectiveness via a vis compliance with goals noted on the planning guide issued this past December, I wish to note the following :

- a. As of 4/11/76 a Recreation schedule will be in operation which will allow each unit roof access for at least 9 3/4 hours per week, with a minimum daily exposure of one hour and fifteen minutes. This does not conform to the goals of two hours due to:
 - 1. Normal daily interruptions between 9AM and 4PM (Noon-lunch, 4PM count and dinner, 7:30 count)
 - 2. Need for significant time on each end of roof visit to transport between 65 and 100 residents to the roof area on only two possible elevators.
- b. Closed circuit TV system has been planned, installation to be started before end of quarter.
- c. All activity schedules posted weekly.
- d. 5 and 2 programs : English as a Second Language and Adult Basic Education to start 4/5/76, Human Sexuality and Family Dynamics, Life Skills, Basketball Team, Salvation Army, Study Release (to start in summer), shows, Outside trips to Theater and Summer Olympics trials, and Empire State College Program to begin 9/76.
- e. Presently statistical information is maintained in our office on program attendance. Certificate of Participation and relevant diplomas are placed in jackets of individuals prior to transfer, or mailed to receiving institution if transfer occurs suddenly. Due to nature of our testing (short, quickly given specific inventories - California Achievement Test, Elosson etc.) And unpredictable turnover, it is difficult to fulfill Sycor requirements except in cases of designated population. For those residents this aspect of the program (BP -7) will have begun during the month of April. Expect efficient operation by mid-May. (Depending on this departments resident staffing patterns).
- f. Although only a few agreeable hobby craft items have been identified to date, we see a much larger program in the area of designating an individual to perform the time consuming function of form -24 collection and administration of the program. (Outside purchase trips etc.) Due to recent escape attempts, the use of such potentially dangerous or escape-promoting items such as pointed tools and heated metal objects must be ruled out. Consequently, future efforts will be in the area of limited access through purchase of selected art materials to be used in conjunction with already existing classes.

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

FROM : Robert Harris, Education Specialist

SUBJECT: Quarterly Report

DATE: July 13, 1976

- 1) Adware TV System program initially cancelled April 1976. Reinstated early June. Installation begun on June 15, with the installation of cables. Target completion date-August 30, 1976.
- 2) College Program-(in-house) will begin on September 1, 1976. Presently selecting the Mentor/Coordinator in conjunction with the Empire State College. In the process of screening 30 MCC Residents as potential recipients for financial aid.
- 3) CED program has processed 36 students this quarter with 14 presently active. 9 students took the High School Equivalency examination. Of the 9 students that took the test 8 passed. For the last 2 quarters twelve out of thirteen have passed. Average class attendance has been thirteen. In conjunction with our tutor assignment program, ten tutors have been assigned this quarter with six presently active.
- 4) Adult Basic Education Program has been expanded to include the 5th floor and 2nd floor residents. This program is now available to all residents for a minimum of 6 hours per week. During this quarter it has processed 260 students with 48 presently active. 16 students passed the New York State Minimum Competence Examination. Average class attendance has been 54 per month. In conjunction with our tutor assignment program 16 tutors have been assigned with 11 presently active. 22 ABE students have been referred to the CED program.
- 5) English as a Second Language program has processed 84 students with 32 presently active. Average daily attendance has been 31 per month. Poor support on Unit 11 caused cancellation on that floor and gave units 5 and 2 a class.
- 6) Creative Writing Workshop presently serving Units 5 and 2 with one two-hour session per week. The average attendance per session during the first half of the quarter was 5, this average has risen during the second half of the quarter to 8 per session.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Encl VII-7(6)

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

FROM : Robert Harris, Education Specialist

SUBJECT: Quarterly Report

DATE: July 13, 1976

- 7) Human Sexuality and Family Dynamics class has been moved from the 5th floor south balcony to the 2nd floor Media Room. One two-hour session on Tuesday evenings. Instructed by Patricia North and Pat Payandah with supervision and escorting of students by Robert Harris. The average attendance per session is 18.
- 8) Life Skills program on Monday evenings has also been moved from the 5th floor south balcony to the 2nd floor Media Room. Instructed by Ms. Phyllis Shatsky with supervision and escorting of students by Paul Lannigan. The average attendance per session is 18.
- 9) Fine Arts Workshop has been expanded to include the 7th floor and a second session has been added to the 5th floor. 212 students have participated during this quarter with 47 students presently active.
- 10) General Art Workshop had 139 students participating during this quarter with 37 students presently active.
- 11) Sculpture workshop has been moved from the 2nd floor Media Room to the 5th south kitchen area for the added custody and supervision of the floor officer. Instructed by Mr. Allen Moore who has replaced Mr. Tyrone Mitchell because of the unreliability of Mr. Mitchell. The average attendance per session is ten.
- 12) Dance Workshop provided by Hospital Audiences Inc. was discontinued in May because of poor attendance. Dance workshop was reinstated June 29, and instructions are now being given by Ms. Monica Meehan. The average class attendance is 8.
- 13) Law Library provided the following services to the residents of Metropolitan Correctional Center:
 - a) Book requests filled.....110
 - b) Xerox services furnished (these services are in lieu of book delivery when the books are unavailable because of prior requests. Additionally copies of cases are sometimes furnished when a return of the book is requested and the particular resident has not completed usage thereof.....63



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: July 13, 1976

FROM : Robert Harris, Education Specialist

SUBJECT: Quarterly Report

For the previous quarter there were an aggregate 73 requests (combined with xerox services) which were filled. This quarter services represents an increase over the preceding quarter of 173%.

Additionally, when requested by the caseworker meetings are had with various residents to explain procedures available to residents. (At all times the caseworker remains present during the meeting).

Losses continue to occur for the following reasons:

- a) pages torn out by borrowers
- b) sudden bus movements and either removal with personal property or having been given to an unknown party on the floor-not an officer
- c) lending of books by one resident to another without authorization.

-Suggestion to introduce mini-law libraries on units has been rejected by the central office.

-unit clerks, where they exist, have not yet assumed any on-floor coordination responsibilities.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: July 9, 1976

FROM : D. E. David, Recreation Specialist

SUBJECT: Quarterly Report: March 25th thru present.

1. The following programs were covered in the Education Quarterly Report:

General Art
Fine Art
Dance Workshop
Sculpture Workshop
Creative Writing Workshop

2. Theatre and Sports Events- Tickets for the theatre and sports events have been and still are being supplied by Hospital Audiences, Inc.. Several events have been offered but due to Parole Board hearings and "not enough time from day offered to day of event", several events were not accepted. There has been several trips to the movies and dinner with volunteer escorts. We are now receiving tickets from a Mr. Pichman, who is the Promotional Director of the New York Mets. Seventeen residents attended a game on May 20th at Shea Stadium. The seats were excellent. Mr. J.P. Johnson, A.W. (P), Mr. Bob Harris, Education Specialist and Mrs. Edna David, Recreation Specialist escorted the group. We are now in the process of expanding this event to include the New York Yankees. Tickets for a Met game on July 19th have been accepted.
3. Tournaments-Approximately two weeks-includes registration, playoffs and finals. Due to the movement of residents from the institution, Awards will now be given after the final games. Tournaments held so far have been Memorial Day (the only holiday since the last report). Average participants per unit-fifteen (15).
4. Bingo-Approximately 45 minutes or until at least four (4) games are won. Held once a month on each unit with prizes provided by the Recreation Department. There is very good participation. Bingo is now held on Saturday evenings.
5. Disco-Was discontinued on April 11th because of lack of coverage and equipment. We are now providing limited Disco with a portable record player provided by Mrs. David. The record library is moderate being supplied by donations. There is a good variety of music. We are now in the process of buying new equipment so that this program can be reimplemented as it was well received. Coverage is now provided by a full time Recreation Officer.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: July 9, 1976

FROM : D.E. David, Recreation Specialist

SUBJECT: Quarterly Report Con't

6. Casual Music-Will be provided on a regular basis again to the 7th, 9th and 11th floors, using the portable record player. The record player is provided to the 3rd floor on Sundays and upon request.
7. Inmate (Traveling) Basketball Team-The team plays all floor teams upon request. The team has played all floors at least 4 games winning all but two. Two games have been played at the Westchester Penitentiary and both were lost because of lack of personnel. We were very well received by both the institution and the residents. The team is planning to return to win at least one game and to play the jail team which is located on the same grounds. After each game, the institution provided sandwiches and drinks.
8. Outside Entertainment-will be discontinued after June 30th due to lack of cooperation on the Units. Hopefully, if cooperation can be gained, this outstanding program should be reimplemmented even if on a limited basis. Due to the lack of a central point for performances and the inability to bring shows to one audience because of separation cases, one performance must be performed four times. This is a tremendous amount of work and demands cooperation from all departments.

The following entertainers have performed since the last report:

Tito Puente with Pete Bonet	2 hours	11th floor
The Torres Band	4 hours	11th & 5th floors
The Persuasions (courtesy of Hospital Audiences)	3 hours	7th & 5th floors
The Inner Voices (Drama)	5 hours	11, 9, 7, and 5
Joe Cuba Band	1 1/2 hours	11th floor & 5th
The Family (Drama and Music)	3 hours	11th & 9th floors
Eddie Kirkland Trio (courtesy of Hospital Audiences)	3 hours	11th & 7th floors
Turner Hall Cosmetics	2 hours	5 South



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: July 9, 1976

FROM : D.E. David, Recreation Specialist

SUBJECT: Quarterly Report Con't

The following performances have been cancelled:

B.B King - Blues singer
B.T. Express
Jimmy McGriff - Famous Jazz recording star
East Coast Experience
The Mama's
Joe Cuba
The Family
Deond D Models
Fashion Show
The Torres Band and many others without tentative dates.

9. Drug Program-Phoenix House is available and well received.
10. Inmate Articles for publication in the Bridge- Response is still very good.
11. Roof Activities-As of 4/11/76, a Recreation Schedule was implemented which allows each unit roof access for at least 9 1/4 hours per week, with a minimum daily exposure of one hour and fifteen minutes. Participation has increased due to warm weather.

Average daily attendance per unit:

5th and 2nd floor	40
7th floor	30
9th floor	35
11th floor	40

12. Universal Gym Workshop-Implemented in May with a good response from all floors. Resident McCoy (11 South) coaches the class. Each floor receives one hour of instruction per week. Mechanical Services have installed a bulletin board on the roof to hold all charts and notices. We hope to have tournaments in weight lifting on the Universal in the near future.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

A-2583

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: July 9, 1976

FROM : D.F. David, Recreation Specialist

SUBJECT: Quarterly Report Con't

13. Arts and Crafts-We are still in the process of trying to implement a full, well rounded arts and crafts program. As stated in the MBO report, only a few agreeable hobby craft items have been identified to date, we see a much larger program in the area of designating an individual to perform the time consuming function of form-24 collection and administration of the program. (Outside purchase trips etc.) We are considering the possibility of capturing certain items (cleared by security) thru catalogs. As of this date nothing is definite.
14. Consultant for Programs-Mr. John Ryan has been hired for consultation on programs such as Arts and Crafts, Tournaments etc.. We are now working together on the Arts and Crafts program.

cc:

J.R. Johnson A.W. (P)
Robert Harris, Education Specialist
Dale Clark, Regional Administrator
Sylvia McCollum, Central Office
Paul Lannigan, GED Coordinator
File



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

A 2584

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: July 8, 1976

FROM : Robert Harris, Education Specialist

SUBJECT: Attached Plan of Action

The attached Plan of Action represents a series of objectives broken down by subject area, representing the goals of the different segments of this department.

These objectives, are by nature, ongoing and in those cases where certain of them have already been instituted, they are always in the process of being more effectively coordinated in the interest of increased efficiency.



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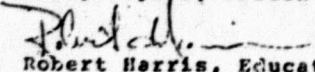
OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: July 8, 1976

FROM : 
Robert Harris, Education Specialist

SUBJECT: Plan of Action as per B.O.P. Policy Statement 7300.63A date 7/18/74 Paragraph 9 entitled Plan of Action.

1. Academic Education (ABE, ASE, ESL)

- Goal a) Increase number of residents involved as tutors on units through tighter recruiting effort and as a result of strengthened ties with Unit Management Staff.
- Goal b) Provide direct supervision for tutors through weekly sessions with Education Department Instructional Assistant.
- Goal c) Have all GED class members pass the New York State Minimum Competence test.
- Goal d) Improve efficiency of operations of GED testing program to cut time between taking of examination and return of scores due to transfer of residents and the need to substitute new testee.
- Goal e) Finalize Awards Policy Statement as it relates to MSA and MGT for various levels of accomplishment within the ABE and GED programs.
- Goal f) Increase sources of quality Spanish language literature for free or at reasonable prices.
- Goal g) Establish a system for diagnosing and following transient students through the MCC and into the Federal system. Integrate this with the full recruitment program.
- Goal h) Provide full support service for Empire State College program re: Identification of students, acquisition of financial aid and smooth follow through to Lewisburg and Danbury.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

A-2586

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE:

FROM : Robert Harris, Education Specialist

SUBJECT: Plan of Action as per B.O.P. Policy Statement 7300.63A dated 7/18/74 Paragraph 9 entitled Plan of Action.

2. Recreation:

- a) Improve coordination and communication re: shows on units, activity delivery, check lists for all systems.
- b) Develop a system for resident purchase of approved arts and crafts materials through unit staff coordination.
- c) Improve efficiency of movement of units to and from roof.
- d) Increase indoor recreational alternatives on the units by:
 - a) creating and stocking mini-gyms in the area presently occupied by the indoor T.V. room.
 - b) rearranging placement of recreational and other materials on the unit floors to increase total floor space.
- e) Acquire Closed Circuit Recreational Commercial Cable T.V. for one recreational T.V. on each unit half. Will allow for first-run movies to be shown along with all home team hockey, basketball and baseballs games.
- f) Place outside "trip program" fully in the hands of units 5 and 2. Insure their continuation of same without any sacrifice of program vitality.
- g) Conduct two (2) Art-Craft exhibits in the New York City area. One to be held in Police Plaza adjacent to M.C.C. for one (1) week, utilizing only projects produced in-house. The other to be part of the "Village Arts Show"-will attempt to coordinate projects from neighboring institutions as well.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

A 2587

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE:

FROM : Robert Harris, Education Specialist

SUBJECT: Plan of Action as per B.O.P. Policy Statement 7300.63A dated 7/18/74 Paragraph 9 entitled Plan of Action.

3. Special Projects:

- a) Legal Video Program with the assistance of selected contract personnel will produce a series of 4 hour video presentations in-house aimed at providing residents with the basic knowledge necessary to understand the legal ramifications of their incarceration. In addition ties will be established with a local law school for the purpose of providing an informational clinic utilizing law students.
- b) Orientation Program will produce in-house a series of 4 hour video presentations to be shown to new arrivals. Subject matter will include departmental information, service acquisition, and facts and procedures relevant to the Bureau of Prisons.
- c) Unit Management coordinate activities with Unit Managers and their staffs to the extent that Unit Clerk positions are created for the purpose of monitoring Education/Recreation programming on the units along with such functions as library, law library and effective supervision of Closed Circuit T.V. system and monitors in unit classrooms.
- d) M.C.C. Closed Circuit T.V. To provide full service on five (5) open channels to each unit classroom. We expect to coordinate the service with Unit Management staff for monitoring purposes, with unit tutors, with education department and college instructors, and on an individual request basis.
- e) Study Release We expect to offer to those residents who qualify for community custody, an opportunity to participate in local study release programming during evenings. Our goal is to offer this to as many residents who qualify.
- f) Sesame Street As a pilot institution in the Childrens' Television Workshop program presently initiated by the Bureau, it will be our responsibility to provide a coordinated "Sesame Street" day care program at the MCC utilizing minimum custody residents as tutors, and serving all children who visit the MCC during those hours when their attendance is



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: July 8, 1976

FROM : Robert Harris, Education Specialist

SUBJECT: Plan of Action as per B.O.P. Policy Statement 7300.63A dated 7/18/74 Paragraph 9 intitled Plan of Action.

heaviest. Our goal is to reconstruct the training room on the 1st floor, hire a coordinator and begin training residents for a October 1, starting date.

- g) Newspaper Program-Our goal is to continue to provide upon a daily and Sunday basis, deliveries of the Daily News, El Diario, New York Times and the Amsterdam News to all units of the MCC.
- h) Personnel-Our personnel goals are twofold for the following year:
First, to add a full time position to this department for the purpose of coordinating all Social Education, Occupational Education, evening programming and Unit recreation supervision. Secondly, a part-time recreation person to overlap roof coverage from the months April to November of each year.
- i) Empire State College Grant-In the first year of the \$40,000.00 grant awarded Empire State College, our goals are to identify candidates for financial aid and acceptance into the varied levels of entry, follow a minimum of four (4) students through their course work at Lewisburg and Danbury, transfer a Regional Learning Center at Park Ave. upon their release from M.C.C., and process a minimum of thirty (30) students at various stages of involvement in the program through the first year. Last and most important of all, is to have the grant renewed for a second year.
- j) Volunteers and Field Workers-Establish within this department a coordinator of all volunteers and field work personnel utilized in the areas of tutoring, recreation, and physical education and social services. The goal is to use a senior volunteer to coordinate the rest of the group.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: July 8, 1976

FROM : Robert Harris, Education Specialist

SUBJECT: Plan of Action as per B.O.P. Policy Statement 7300.63A dated 7/18/74 Paragraph 9 entitled Plan of Action.

4. Social Education

- a) Sesame Street (see Special Projects)
- b) Salvation Army Program-expand scope and coordination of Salvation Army visits to provide for individually kept appointment lists by Unit Staff, coordination between units to assist in bringing Salvation Army representatives from unit to unit, and production of T.V. program acquainting residents with scope of services.
- c) Department of Welfare Program-Our goal is to establish with assistance of the New York City Department of Social Service an M.C.C.-based City case worker, on a one day a week basis, to coordinate welfare, child care, and personal service needs for the many residents of this facility who are also residents of New York City.
- d) Guest Speakers-Also under the auspices of the volunteer coordinator and relevant instructors in the department, would be the creation of a Guest Speaker program for the purpose of enriching class activities and providing a visual record of their relevant information on video tape.
- e) Life Skills-Expand the scope of the Life Skills program to coordinate it with Unit Staff on 5 and 2 and make it a monitored pre-release requirement on the basis of both individual sessions, and group session attendants.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: October 6, 1976

FROM : Robert Harris, Education Specialist

SUBJECT: Quarterly Report

1. M.C.C. Closed Circuit Ed. TV: cables in North and South sides of building tested and working. Five open channels, VTR's, monitors, and modulators working. Monitors, film chain, sound and lighting equipment, and assorted blank video tapes have been delivered although installation will not begin until week of 10/18. RF antennas to both sides of 3rd floor to be installed as well. Financial assistance by Central Office in purchase of blank tapes is gratefully acknowledged. System should begin to be minimally operational by November 1. Great need for relatively longer termed resident to be assigned to project full time.
2. Empire State College: started September 7, with Ms. Shirley Ariker as Mentor/Coordinator with 9 students in the first group. At the time of this writing there are 13 participants. Ms. Ariker has been provided with an office which she shares with the institution dentist. Her student identification program provides her with more candidates to interview than she can presently handle. We are more than pleased with our development in this area to date.
3. GED: has processed 35 students this quarter with 12 presently active. 12 students have taken the High School Equivalency Examination. Grades have not as yet been returned. Average class attendance has been 11. In conjunction with our tutor assignment program, 7 tutors have been assigned with 4 presently active.
4. Adult Basic Education: serves all units. The program slowed a bit during August when our prime instructress Phyllis Morganstern was hospitalized for major surgery. During this quarter it has processed 223 students with 131 presently active. The New York State Minimum Competence Examination was not given during this quarter. Average daily attendance has been 100. 9 tutors have been assigned with 6 presently active. 13 ABE students have been referred to the GED program.
5. English as a Second Language: has processed 160 students with 160 presently active. Average attendance has been 27. Units 5 and 2 have continued to maintain their class, and reorganization of the entire group has allowed unit 11 to keep its class.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Exh VII - 7(c)

A 2591

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: October 6, 1976

FROM : Robert Harris, Education Specialist

SUBJECT: Quarterly Report

6. Creative Writing Workshop: serving Units 5 and 2 with one 2 hour session per week. Average attendance per session has been 8 .
7. Human Sexuality and Family Dynamics: One 2 hour session per week, Wednesday evenings. Instructed by Patricia North 5th floor students supervised and escorted by Robert Harris. Average attendance. 18 .
8. Life Skills: Monday evenings, one 2 hour session for residents of Units 5 and 2. Instructed by Phyllis Shatsky (Title III Adult Basic Education-N.Y.C. Board of Education.) Supervision and escorting by Paul Lannigan. Average attendance per session is 12 .
9. Fine Arts Workshop: 200 students have participated during this quarter with 50 presently active.
10. General Art Workshop: 145 students have participated during this quarter with 419 presently active.
11. Sculpture: Since the move of this class to the 5 South pantry and the change of instructor to Mr. Allen Moore, this program has been quite steady. Average class attendance is 36 .
12. Dance/Movement Workshop: instructed by Ms. Monica Veehan of NYU. Offered on Unit 5 South to 2 groups. Average attendance is presently 18 .
13. Law Library: provided the following services to the residents of the M.C.C.:
 - a) Book requests filled 319
 - b) Xerox services furnished (in lieu of book delivery when books are not available and/or when the material involves very recent changes in applicable law of interest and importance to large numbers of the resident population. In addition to photo copies of individual cases, the law library maintains an inventory of photo copy material which has been found to be regularly requested i.e.: Interstate Agreement on Detainers; Parole Reform Act; Time Computation Statutes-Title 18; etc. etc.



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

PAGE

MISSING

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: October 6, 1976

FROM : Robert Harris, Education Specialist

SUBJECT: Quarterly Report

17. Field Workers and Volunteers: a) Messrs. Elton Charles and Adam Henick of the Hunter College Graduate Program in Community Health administered daily calisthenics programs on Units 7, 9, 11. Ms. Pat Pavandah of the same school has assisted Ms. North in the Human Sexuality and Family Dynamics program by providing guest speakers for the class and teaching occasional sessions herself. Mr. Kerry Nicholson, also of Hunter has inherited the calisthenics program for the fall term. Mr. Jeffrey Peiken of Brooklyn College will be instructing residents on 7, 9 and 11 in the most physiologically sound use of the increasing amount of heavy equipment finding its way to the unit. b) Two case workers from the NYC Department of Social Services will be stationed in the MCC two mornings per week, developing cases from among our population on a regular appointment basis. They will follow these cases from start to finish and be personally responsible for the successful resolution of each. c) Salvation Army has continued to provide their social work services, (except when on vacation during August) although they will move more specifically in the direction of pre-release training and special services in conjunction with the Social Services group. The Army has also agreed to sponsor a program of bus trips to Lewisburg and Allenwood for Greater New York area relatives of residents at those facilities so that they might find it more possible to make these visits.
18. Translation of Policy Statements: Ms. Griselda Rodriguez has been retained by our office to translate key MCC policy statements into Spanish.
19. Policy Statement on Incentive Awards completed.
20. Magazines obtained from General Post Office bi-weekly for distribution to population. Paperback books obtained from Hudson County News Service monthly (3-5000 per trip) for distribution to population.
21.  Recreational library organized except for typing of catalog cards.

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: October 5, 1976

FROM : D.E. David, Recreation Specialist

SUBJECT: Quarterly Report

1. Tournaments: program serving all units has been having difficulties in such areas as coverage for tournament and inability to get unit winners to play each other and other floors. Therefore the recreation department will try having individual unit tournaments. Tournaments are held in basketball, volleyball, handball, ping pong, pool, cards. New tournaments to be held in the future are paddle ball, chess and dominoes. Tournaments are held on all major holidays and last approximately 2 weeks including registration, playoffs and finals. Awards and certificates are given to winning participants. Participation is good.
2. Bingo: is held on Fridays, once a month for all units. Prizes are provided by the recreation department. Bingo games last approximately 45 minutes or until all prizes are won.
3. Casual Music: has been reinstated and is given on all units once a week.
4. Disco Music: initially cancelled due to lack of equipment has been reinstated. The recreation department was able to purchase speakers, tuner and turntable July 3, 1976. Disco is held on Saturday night for approximately 2 hours on the 5th floor.
5. Theater trips: are still being held when tickets are available. Unit staff now handles all paperwork etc.
6. Sports events: trips are made to sports events when available and all paperwork etc. pertaining to trips are handled by the Unit Staff.
7. Outside Entertainment: which had been cancelled has been reinstated. The recreation department is now in the process of trying to book several shows.
8. Basketball team: will be playing more outside teams in the future. They have had several games with unit-floor teams.



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

A 2595

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: October 5, 1976

FROM : D. E. David, Recreation Specialist

SUBJECT: Quarterly Report

9. Universal Weight Lifting workshop: a workshop in weight lifting for all units has been well received. Resident John Spillane is the coach and is doing a great job. Each unit receives one hour weekly of instruction on the universal weight lifting machine. There has been one weight lifting contest and it was a success. Average class size is ten.
10. Calisthenics (Exercise) Workshop: a workshop in calisthenics which included a hypertension program was started in July, 1976. This program was well received as it provided information of blood pressure (high and low) and provided indoor activities. Hunter College provided students who are majoring in physical education to set up the program. Average class size is 20. See volunteer section of Education Quarterly report.
11. Arts and Crafts: the Recreation Department is now awaiting approval of arts and crafts projects, such as paint-by-number, simple wood crafts, leather craft etc. Needlework and knitting has been approved.
12. Equipment: Major equipment has been purchased for use on the units and on the roof. Most of the items are not in use as mechanical service has been unable to install them. The items purchased are as follows:

Jogging machine
Exercise bikes
Abdominal boards
Body bags
Punching bags
Chinning bars
Three station universal gyms
Wall paralalled dip bars

Major roof equipment still to be installed:
Volleyball stands
Heavy training bags
Basketball backboards
Bocchi ball court



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OPTIONAL FORM NO. 10
JULY 1973 EDITION
GSA FPMR (41 CFR) 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : Larry Taylor, Warden

DATE: October 5, 1976

FROM : S.E. David, Recreation Specialist

SUBJ: Quarterly Report

Other Equipment:

Fender Rhodes electric piano (need amplifiers)

All of the equipment listed with the exception of the piano is
needed in several planned programs.

See Education Quarterly Report for following Workshops:

13. Fine Arts.

14. Art

15. Sculpture

16. Dance workshop

17. Creative Writing

Summer Roof:

18. Roof: roof schedule was started in April, 1976. Average
attendance - forty (40) per floor. Unit Staff covers 40%
of the roof coverage therefore, complete figures cannot be
supplied as they have not kept records of attendance. Each floor
receives one hour of roof recreation daily, plus one Bonus
hour per week. The 5th 2nd, and hospital floors receive
additional roof recreation on the weekend which totals to
20 1/2 hours per week. All other floors receive a total of
8 hours roof recreation per week.



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Volume 62 of Federal Rules decisions

Modern Federal Digest Volumes (with pocket
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§§ 1 to 590 (2 volumes)
§§ 591 to end
§§ 832 to end (2 copies)

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10 to 17.1
1 to 9

Title 18 Criminal Procedure 32 to end
15 to 31
48 to end

Title B §§ 371 to 470
§§1081 to 1690
§§ 18 to 31
§§ 1 to 370
§§ 471 to 1080
§§1691 to 2310

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10 to 17.1
18 to 31

Title 18 §§1691 to 2310
Title 21 §§ 1 to 800
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Title 26 §§ 1 to 800
§§4001 to 5080
§§6301 to 6850
§§6851 to 7400
§§7501 to end (2 volumes)

Title 28 Rules of Appellate Procedure

28 §§2241 to 2253
29 §§ 217 to end
28 § 2254
28 §§2255 to 2280
§§2281 to 2500

28 Rules of Bankruptcy

Court of Claims, and Court of Customs

28 §§2241 to 2252
§§2255 to 2280
§§2501 to end

Title 29 §§ 217 to end
Title 42 §§1891 to 1984
Title 42 §§ 1 to 405
§§406 to 1399
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Black's Law dictionary
Kamisar - Modern Criminal Procedure
Modern legal forms
Federal Rules Criminal Procedure (16 copies)
Federal Rules of Evidence (16 copies)
Federal Rules of Appellate Procedure (16 copies)
Federal Rules of Civil Procedure (2 copies)
United States Prison Law (Sol Rubin)
Sokol, Federal Habeas Corpus
Benders, forms Volume 4A
Modern, legal forms 6481 to end
Social Reform & The Constitution
You and The Law (Readers Digest) @ 1973
Criminal Law Reporter (with advance sheets)

Volume 16
17
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Legal Research, William Statsky
Recent Developments in Correctional Case Law
United States Bureau of Prisons Policy Statements
United States Attorney, Bulletins
Volume 23, Nos. 18, 19, 20, 26
Volume 24, Nos. 3, 4, 5, 7, 8, 9, 10, 11, 12, 13
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73	THE SCALPEL/ALLAN AND GORDON
74	SCAPE ON THE SOUL/SAGAN
75	SEASON IN THE SUN/WALCOTT/CIGARS
76	TOWARD THE MORNING/ALLEN
77	SO GREAT A MAN/PELGRIM
78	SEVEN SEASONS IN A GOLD MINE/LARSEN
79	SO LITTLE TIME/MARQUAND
80	THE BEST-LESS PLANE/LUIS DE WOHL
81	WHAT MAKES SAMMY DUMP/SCHULLER
82	REBEL! A BIOGRAPHY OF TOM PAINE/EDWARDS
83	CHAIRMAN OF THE BOARD/STREETER
84	DAYS OF PLENTY/PERNICK
85	DON'T GO NEAR THE WATER/GRIMLEY
86	RETIRE AND BE HAPPY/SALOMON
87	LOW MAN ON A TOTEM POLE/SMITH
88	VAN NEEGHEREN MASTER FORGER/KILBRACKEN
89	BENNETT CREEP'S BUMPER CROCK/CREEP
90	ALL IN THE FAMILY/EDWIN O'CONNOR
91	THE MEFURK/WESTCOTT
92	THE SILVER CHALICE/COSTAKIS
93	ELIZABETH CAPTIVE PRINCESS/IRWIN
94	BONJOUR TRISTE/SEAN/SAGAN
95	THE CHAPMAN REPORT/WALLACE
96	WHITE BEN/DANE
97	THE SON OF MARIETTE/FABRICIUS
98	SOMETHING OF VALUE/EURAK
99	THE CHIPPEDALES/R. GRANT
100	THE SPECULATORS/C. GERSTINE
101	GALAHAD/J. YERKINE
102	A THING OF BEAUTY/CRONIN
103	AFONANI JUNCTION/MESTERS
104	CHILDREN ARE PEOPLE/EMILY POST
105	CHAMPAGNE BEFORE BREAKFAST/GARDNER
106	PAPER OR THE LOST YEARS/WASSERMAN
107	SHANNON'S WAY/CRONIN
108	SLEEP TILL NOON/SCHULMAN
109	WORKS OF GEORGE ELIOT
110-113	THESE GUYS WIN WARS/ANTONELLI
111	THE UNDERGROUND REVOLUTION-SIPPY, YIPPIES AND OTHERS/FRIGELSON
112	THE SCAM OF FERNAND AND ZENBELL/ERRIESOL
113	FOREVER AMBER/WISDOM
114	FUN WITH YOUR NEW FEED/T. DISCE
115	ANTHONY ADVERSE/ALLEN
116	NIGHT HAS A THOUSAND EYES/MURPHY
117	NAME AND ADDRESS/T. S. MATHEWS
118	THE BLACK CONSUL/VINOGRADOV
119	EINSTEIN AND THE GENERATIONS OF SCIENCE/FEUER
120	DIPLOMAT/ERIC CLARK
121	THE VIEW FROM POMPEY'S HEAD/BASSO
122-123	THE VIEW FROM POMPEY'S HEAD/BASSO
124	THE VICTORIAN ALBUM/BERCKMAN
125	VERTICAL AND HORIZONTAL/ROSS
126	VALLEY OF THE DOLE/INFERN
127	THE FOUR MILLION/O'BERRY
128	THE TRINITY PURDINE AND ISABELLA/MARICOL
129	THE INCREDIBLE BRASSLEY/GROBE

131	THE VOICE OF THE CITY/O'HENRY
132	VICTORIA GRANGELET/BELLAMANN
133	THE SEVENTH CROSS/LAGHERS
134	VOICE OF THE DAMNED/THOMAS AND WITTE
135	THE BEST SUPERNATURAL TALES OF ALGERNON BLACKWOOD
136	SHANNON'S WAY/CRONIN
137	THE STATUS SEEKERS/VANCE PACKARD
138	THE TIME FOR DECISION/WELLES
139	CASH MCCALL/HUMLEY
140	SON OF A HONORED KING/COSTAIN
141	THE TIME FOR DECISION/WELLES
142	DRAGON HARVEST/UPTON SINCLAIR
143	THE THREE PERSONS HUNT/CARFIELD
144	RALPH/PRICE
145	WRIGHT'S LAMP/EDDIE/EDMUND GUNSET
146	A PRIZE SPECTACULAR THING/BOYD
147	CHEZ PAVAN/LEWELLYN
148	STUDS LONAGAN/VERRELL
149	RAINTREE COUNTRY/LOCKRIDGE
150	BIGGER THAN A BREADBOX/ALLEN
151	LETTY AND THE LAW/BALDWIN
152	THE WIDE HOUSE/CALDWELL
153	BARNABY RIDGE/CHARLES DICKENS
154	THE KEYS OF THE KINGDOM/CRONIN
155	BERLIN DIARY/SHIRER
156	SHOW BOAT/VERBER
157	THE FACTOR OF DALLANTREE/STEVENSON
158	ANCHOR-WOMAN/AL MORGAN
159	FOUCHER/COLE
160	STRANGER THAN FICTION/BROWN
161	THE SQUARE ROOM OF TUESDAY/DAVIDSON
162	STRICTLY BUSINESS/O'HENRY
163	SIXTH AND SEVENTH/O'HENRY
164	ROADS OF DESTINY/O'HENRY
165	THE GENTLE CHAPTER/O'HENRY
166	WHIRLIGIGS/O'HENRY
167	THE TRIMMED LANE/O'HENRY
168	LETTERS OF MARRIAGE/LEWELLYN WORKS
169	UNDER THE DEODARS/LEWELLYN WORKS
170	CITY OF THE DREADFUL NIGHT/LEWELLYN WORKS
171	THOSE AND FORTY-TWO BLUE LAY BOYS/ENDERSON/VELLER/BAHNSON
172	ATLANTIC PROSE AND POETRY/THOMAS AND PAUL
173	THE SYMBOL OF THE MIND/BLANCH
174	WOMEN AMERICA TO THE/INTELLIGENCE
175	PAY THIS HOUSE BE HAVE FROM TIGER/FINE
176	SEVEN DAYS IN JULY/VERRELL & LARLEY
177	THE ADVENTURES OF JACKMAN
178	LETTERS/DOCTOR
179	GREAT SON/SONA VERRELL
180	THE HISTORY OF GENTY REMOND/THACKERAY
181	CONFESSION/ALLEN
182	THE VILLAGE FIGHT/POWELL
183	STANLEY/CLARK/KENYON
184	THE SLAVE/STANLEY
185	GREAT SON/SONA VERRELL
186	LORD VANITY/VERRELL
187	PITTI LAMBERT/VERRELL
188	THE PASSION OF ROBERT BRONSON/ALONSO
189	THE PASSION OF ROBERT BRONSON/ALONSO
190	THE WAYWARD/STANLEY
191	JUST OF FINE/PRICE
192	THE PASSION OF ROBERT BRONSON/ALONSO
193	THE PASSION OF ROBERT BRONSON/ALONSO
194	SINCERELY/VERRELL/VERRELL
195	MY BROTHER'S BROTHER/DAVIDSON
196	MY BROTHER'S BROTHER/DAVIDSON
197	MY BROTHER'S BROTHER/DAVIDSON
198	MY BROTHER'S BROTHER/DAVIDSON
199	SO LITTLE THING/MARQUAND
200	M.P.'S DAUGHTER/MARQUAND
201	VERRELL'S COGNITION/VERRELL

NOVELS

205 to 209	MAGELLAN'S VOYAGE AROUND THE WORLD/BOWELL
209	I CHOOSE FREEDOM/KRAYCHENKO
211	BURMA SURGEON/SEAGROVE
212	THE HURRICANE YEARS/RAWLEY
213	THE LEVANTER/ERIC AMBLER
214	BELOW THE SALT/COSTAIN
215	THE LINCOLN LORDS/HAWLEY
216	THE SPENT CAMP/WEIDMAN
217	BAREFOOT BOY WITH CHEEK/SCHULMAN
218	FLATS/WURLITZER
219	THE COVERS OF ANTOINETTE/BLUNDHILL
220	THE FORTUNE TELLERS/FLEMING
221	BACK HOME/BILL MAULDIN
222	SON OF GROUCHO/ARTHUR MARK
223	BEYOND THIS PLACE/CRONIN
224	ADVENTURES IN TWO WORLDS/CRONIN
225	CHEAPER BY THE DOZEN/GILBERTH AND CAREY
226	THE BETRAYEE/COLE
227	THE GREAT CHALLENGE/FIGUEROA
228	THE AMERICAN PRINCE/KUHN
229	THE AMERICAN PEDDLER/GORDON
230	THE CRUSADERS/HEYM
231	THE ARRANGEMENT/KAZAN
232	BEHIND THE CURTAIN/GUSTZER
233	ONLY IN AMERICA/GOLDEN
234	LADY L./GARY
235	THE VON RICHMANN SISTERS/GUNN
236	DESERT ISLAND DECEMBER/SMITH
237	PRESIDENTIAL MISSION/SINCLAIR
238	THE NAKED AND THE DEAD/MAILER
239	ROMOLA/GEORGE ELIOT
240	THE BOG MAN I/MCDONALD
241	DON'T GO NEAR THE WATER/FRYDALEY
242	MEANS TO AN END/WILSON
243	MEANS TO AN END/WILSON
244	AN AMERICAN BARD/HOLDEN
245	THE ANGEL INSIDE WHAT SOUL/POTEMPA
246	SMUGGLER'S PARADISE/AMMONGT WERE
247	AT HOME IN MEXICO/SMART
248	TWISTED TALES FROM SHAKESPEARE/ARMOUR
249	A MATTER OF LIFE AND DEATH/PETERSON
250	THE HUCKSTERS/WAKEMAN
251	THE END OF EMPIRE/SERACHET
252 to 255	EDGAR ALLEN POE-SEVEN TALES/BAUDELAIRE
256	TRUDEAU IN POWER/STEWART
257	THE QUEEN'S CROSS/SCHOONOVER
258	MR. MAGNAN HIMSELF/MAUGHAM
259	THE BEST OF EVERYTHING/SAPPE
260	CAME A CAVALIER/EYES
261	NOT AS A STRANGER/THOMPSON
262	A POCKETFUL OF RYE/CRONIN
263	PRIDE AND PREJUDICE/JANE AUSTIN
264	BLACK HAMLET/BACHS
265	THE SILVER CHALICE/COSTAIN
266	THE DIPLOMAT/JAMES ALDRIDGE
267	THE PUSHCART PEDDLER OF NEW YORK/ROSS
268	THE EARL COVEY STORY/COVEY
269	INTRUDER FROM THE SEA/MCDONELL
270	THE FORTUNE HUNTERS/AIKEN
271	AWAY ALL BOATS/DOODSON
272	THE SMALL CODE & MR. BARNUM/MAX TRELL
273	MAN IN A CAGE/SCHOLZ
274	THE MARRIAGE OF JOSEPHINE/CORYN
275	IT HAPPENED IN BOSTON/GRECKAN
276	MOTHER IS MINE/UNTERMEIER & WILLIAMSON
277	THE RETURN OF THE NATIVE/HARDY
278	FLATS WURLITZER
279	PAUL SAPF/DODDICK & WHEELER
280	SEVEN DAYS IN MAY/KNEBEL & BAILEY
281	DESCENT/ELLISON
282	THE LOST ISLAND/DILLON
283	NOW I LAY ME DOWN TO SLEEP/RENNELMANG
284	THE LAST LIGHT RAIN/GREEN

288	MR. HOLLISTER SPEAKING/P.C. WOODHOUSE
289	THE MORTON STORY/TYMESON*
290	THE PASSIONATE JOURNEY/STOCK
291	FLINT/HORRIS
292	ANGELS CAN'T DO BETTER/TRIER
293	NEITHER A CANDLE NOR A FITHFORK/PORTER
294	NOT BY BREAD ALONE/DUDINTSEV
295	JULIA COMES HOME/FAIR
296	A NATION OF SHEEP/LEDERER
297	MARYJANE VERSUS PENNSYLVANIA/PINE
298	A MANY SLENDERTY TYING/ROYIN
299	CARGO FOR A KING/ANDREWS
300	THE NUB'S STORY/HULME
301	NO MORE TRAINS TO TOTTERVILLE/CAMPBELL
302	THE STARS LOKL DOWN/CRONIN
303	CYRANO DE BERGERAC/POSTAND
304	TAN NORTH FREDERICK/JOSH O'HARA
305	MY PARTNER-IN-LAW/LITTLETON
306	THE MYSTERIOUS UNIVERSE/SEASH
307	DEADFALL/WILKER
308	INDIGO/NESTON
309	THE DOOMED OASIS/TERRE
310	GON'T GO AWAY MAD/HAYES
311	DEVIL DRUGS/MTY AY
312	CHAMPAGNE BEFORE BREAKFAST/CARDED
313	THE TRACE MILLERS/DETER
314	DISGRACE GROUNDING/REED
315	THE ENCHANTED/SCHULBERG
316	MYSTERY OF THE MISSING STAMPS/CLAY
317	MORNING JOURNEY/HILTON
318	MONA LISA'S MUSTACHE/T.M. ROSSON & GIBBING
319	THE EGYPTIAN CAT MYSTERY/BLAINE
320	IN GOD WE CRY/CHASE
321	NOT FOR HEAVEN/MCCLEARY
	HUNGERY MEN/ANDERSON
322	THE NINTH WAVE/MURDICK
323	THE HOUSE AT CANTALWOOD/COPPERN
3294	THE CHASED AND THE UNCHASED/OLKEY
325	THE DOOMED CASTS/INNES
326	DOCTOR KREMEROVICH/WASSERBERG
327	DEVIL'S HARVEST/SLAUGHTER
328	IN DARKEST CHILDHOOD/HUBER
329	DESCENT/ELLISON
330	THE DOUBLE BLIND/WILSON
331	DOES IT ALWAYS RAIN HERE /3 MONTY/ROTT
332	THE DISTANT FRONT/HARTOG
333	THE LAST DAYS OF MR. PUNCH/PIERS
334	THE ELIMINATOR/TORR
335	THE EMERALD CRYME/MCCORMICK
336	QUENTIN DURWARD/SCOTT
337	BEYOND THE BUSHES/TUCKER
338	DO YOU BELIEVE IT/CALDWELL & LEONARD
339	CHRIST YE CONCRETE/ROMATO
340	A DYING FALL/DOLESON
341	BLACK IS THE COLOR OF MY TRUE LOVE'S HEART/PETERS
342	THE BLIND HEART/JAMESON
343	BLACK ANGEL/SCOTT
344	THE CASE OF THE DARING DIVORCEE/GARDNER
345	THE SHROUDED DEAD/FINE
	QUEST OF THE SOCIETYMAN/LOCKRIDGE
346	THE DOUBLE BLIND/WILSON
347	DIARY/LAROC
348	HARVEST OF THE SIXTH REED/MORRIS
349	DEACONWICK/SETON
350	IMPERIAL CITY/RICH
351	THE MOUNTAIN GOD/WHITE
352	COME ON THE WATER/HASTINGS
353	THE POISONED STEAK/HADT
354	STREET INTO NIGHT/HYATT
355	THE BAKED BELAND/BRADSHAW
	BORN IN ORCADITE/TREPSKO
	NO MORE TRAINS TO TOTTERVILLE/CAMPBELL

COVERS

427 THE BIG EYE/WHILSON
 428 THE CAROLINIANS/GARREY
 429 ALL THE DAY LONG/SPRING
 430 INSTRUMENT OF THE PEACE
 431 ALL THE LITTLE LIVE THINGS/FRUGHER
 432 CANTO FOR A GYPSY/SMITH
 433 A HERO FOR REGIS/HOFFENBERG
 434 WALK EGYPT/WILLIAMS
 435 A HOUSE IS BORN/LOOS
 436 LIVE WITH LIGHTNING/WILSON
 437 LIGHTNING GLINGER/CESENER
 438 ALL THE WAY BY WATER/DEAN
 439 JOURNEY INTO FEAR / AMBLER
 440 FAME IS THE SPUR / SPRING
 441 THE SUN IS MY UNDOING / DEZEN

 442 THE SUN IS MY UNDOING/OTHER
 443 LORD JOHNNIE/WHITE
 444 LORD JOHNNIE/WHITE
 445 THE SHARK AND THE SHADDOES/AVENALO
 446 FAME IS THE SPUR/SPRING
 447 THE WEATHER IN MY STREETS/LENNARD
 448 THEY WERE WEDDING/WHITE
 449 RENEGADE/LEWISON
 450 THE YOUNG LIONS/SHAW
 451 THE THINKING HEAD/WHIT
 452 CAPTAIN FROM CRYSTAL/SHILLAWERGER
 453 TUNE OF THE MAGIC FINGERS/WILLIAMS
 454 SALT ON THE EDUCATION OF CHIFFITH ADAMS/MORRIS
 455 A GIRL CAN DREAM/CAVNER
 456 THE FOREIGNER/MALVERN
 457 CANTO FOR A GYPSY/SMITH
 458 EGYPT'S CHOICE/BROWN
 459 STAGLEY AND DENICE HERNIMAN/ELITE
 460 DOWNSIDE/SPENCER
 461 THE UNCEFTLE TRUMPET/HATCHERSON
 462 THE GARDEN OF POLLS/LEACOCK
 463 THE HIGH HOUSE/CALDWELL
 464 ONE STAR GENERAL/MORROW
 465 I AM THE CAT/MUTAK
 466 BIRTH COULD BE FAIR/PASSING
 467 THE REDDISH PAINT-A GAY COLLECTION
 468 THE GYPSY GIVENS/FRANK
 469 STANDARD LEPID/ELITE/PAU
 470 WHO ARE THE HAZARD WILLIAMS/LAWRENCE
 471 TORMING LIVES/PROCTOR
 472 HERE IS YOUR YEAR/FILE
 473 PRAYER BY MORNING/MURTELL
 474 FLY IS NOT BROOD/HERLEY
 475 THE BRIGHT SHAVE/HERCENBERGER
 476 THE MADONNA COMPLEX/SCOTT
 477 DRIVEN WOMAN/CHEVALIER
 478 WHITE REDICE RUCCANERO/COSTELLO
 479 THE FOUNTAIN OVERFLOWING/WEST
 480 I SHOULD LIVE SO LONG/SABALON
 481 FOCUS/MILLER
 482 THE FEET OF CONCRETE/CORRU
 483 THE FOLDED LEAF-HAZWELL, DRUM LEGEND/WUTHMAN
 484 CANNON HILL/GRANT
 485 THE BUREAU HANDBS/GOODMAN
 486 THE SURVIVORS/THREE
 487 AS THE SAILOR LOVES THE SEA/HADHAM
 488 ALL THE TEE TROCHES/TROKING
 489 KIMMY/DEWING
 490 IT'S A SECRET/ROCK
 491 IS IT SAFE TO QUIT THE WATER/BUCKFELD
 492 THE ETERNAL FIRE/GOVERNMENT
 493 ZALL THE LITTLE LIVE THINGS/FRUGHER
 494 SOUTH WIND/DOUGLAS
 49455 THE CROSS AND THE ARROW/WALLS
 495 LEADING LADY/HILL
 497 GRID IRON CRUSADER/FRYERHOLZER
 498 THE CRYSTAL BOAT/ENKINE

HOTELS

502 KISSING COVERS/WATSON
 503 TRUSTED LIKE THE FOX/WOODS
 504 TORQUOISE PINE/ROUSSEAU
 505 THE SKY IS RED/BERTO
 506 THE SITUATION IN FLUSHING/LOVE
 507 THE SINGING CAVE/DILLON
 508 THE SINGING CAVE/DILLON
 509 HERE COMES TOMORROW/ZELINKER
 510 HIGH CRYSTAL/CAIDIK
 511 HIDING PLACE/WILCOX
 512 HOLD BACK THE NIGHT/FRANK
 513 THE FIRST DAY OF FRIDAY/TRACY
 514 THE FIRST DAY OF FRIDAY/TRACY
 515 SHADOW OF THE MOON
 516 THE SIGNPOST/ROBERTSON
 517 THE SHAPE OF A YEAR/HERSEY
 518 STAR MONEY/WINSOR
 519 A TREASURY OF MODERN BEST SELLERS
 520 HILLY'S HAPPY HOLIDAYS/GAMORAN
 521 HOLIDAY GAMES/STEPHARD
 522 THE HARD-BOILED VIRGIN/NEK
 523 EX-WIFE/PARROT
 524 EXCELSIOR/BOHNER
 525 EARTH AND HIGH HEAVEN/GRABER
 526 EAGLE AT MY EYES/KATKOV
 527 THE FOREIGN MINISTER/LANIE
 528 FORTUNE'S GIFT/NEEDY
 529 GIFT FROM THE SEA/LINDBERGH
 530 THE QUANTITY OF A RIZEL NUT/MALANIA
 531 LIGHT IN THE SKY/YOUNG
 532 SINGING/FEUCHTERLUNGER
 533 THE FALL OF A TOWER
 534 THE FOLDED LEAF/MAX DARK RECORD/WERTHAM
 535 THE WORLD CHANGERS/OLYAN
 536 THE SONG OF BERNADETTE/WEINER
 537 GIDEON'S STAFF/HARRIS
 538 GIDEON'S LOT/HARRIS
 539 THE LANCE OF KIRANA/FRENCH
 540 HOTEL TALLEYHARD/BOHNER
 541 BALDUR'S GATE/CLARK
 542 LAST SUMMER TO REMEMBER/LEXICH
 543 THE MAN WHO SOLD DEATH/HUNKO
 544 THE TIME FOR DECISION/WELLES
 545 SINCERELY WELLES WAYDE/WELLES
 546 THE WALKER GERIC/WELLES
 547 WILLIAM/YOUNG
 548 THE WISE CHILD/SHADEL
 549 MYSTERY OF THE MIDDLE ROAD/CLARK
 550 THE MAN IN THE WHITEFIELD/LIBERT
 551 MASTERMAN READY/HARRIS
 552 THE MARCHING WIND/CLARK
 553 SENATOR MARLOWE'S DAUGHTER/STETES
 554 MANHATTAN TRANSPARENT/POYLA
 555 POCAHONTAS & CO/FLAHERTY
 556 MATADOR/CONNOR
 557 LOW MAN ON A YOUTH POLE/SMITH
 558 THE LONG ROAD/CONNOR
 559 STAR MONEY/WELLES
 560 MAGNIFICENT MISTERY/SHADEL
 561 MARJORIE IN THE SUNNY SOUTH COUNTRY
 562 THE ANOINTED/DAVIS
 563 SWEET BY APOLLO/SHADEL
 564 SWIMMER/MULLEN
 565 STORM'S END/SHADEL
 566 STORES TO REMEMBER/COSTAUME & BROOKLYN VOL.2
 567 STORES TO REMEMBER/COSTAUME & BROOKLYN VOL.2
 568 THE SWIMMING POOL/RYCHART
 569 THE STRANGE WOMAN/WILLIAMS
 570 THE HOUSE BEFORE DAWN/FRANKLIN

571	INVITATION TO THE WALTZ/LEHMANN
572	HEATHER OF THE HIGH HAND/ERRINGER
573	THE LOTRIAN ROSE/HUNTER
574	AT LAST TO KISS RHANDA/MOIRIS
575	LORD JOHNNIE/WHITE
576	A TREASURY OF MODERN BEST-SELLERS
577	TOURIST/GREEN
578	THE STAINED GLASS JUNGLE/WILSON
579	THE QUEST FOR THE DREAM/ROCKE
580	THE LIVES OF A LEGAL LANCER/BROWN
581	LOVE IS A BRIDGE/FLOOD
582	LIKE A SISTER/GERSON
583	LOOK TO THE MOUNTAIN/CANNON
584	LANTERNS ON THE LEVEE/PERCY
585	THE FORT OF GOLD/DILLON
586	ZOTZ/KARYS
587	THREE BOY SCOUTS IN AFRICA/DOUGLAS*MARTIN*OLIVER
588	PILGRIM'S INN/GODDGE
589	FATHER AND SON/FARRILL
590	A BOY'S QUIET VOICE/COREA
591	BEES AND THE SMILING MACKEREL/CARYL
592	THE WYDS OF BLACK RIVER/EDMONDS
593	HARD FACTS/SPRING
594	LORD JOHNNIE/WHITE
595	LORD VANITY/HELLADARGES
596	THE FIERCEST HEART/CLOETE
597	LOW MAN ON A TOWER POLE/WHITE
598	LORD JOHNNIE/WHITE
599	ISLAND IN THE SUN/WALSH
600	A COVENANT WITH DEATH/SECURE
601	GETTING THE MOST OUT OF LIFE
602	THE GREAT MEN/HODGSON
603	OUT THE GREAT/TUNCAN
604	LOVE IS MOTHER/VOONG
605	FLOODS OF SPRING/HELLMANN
606	ASSAULT ON A QUEEN/FINNEY
607	AVIATION/BOYLE
608	SEVEN LEAGUE BOOTS/HELLMANN
609	HOT AS A STEAK/THOMPSON
610	ROUGH STONE/WHITE
611	THE GREEN ALT/HARPER
612	HOMESTARD NO/DOVVOY I DENNIS
613	WALK COFFIN/HELLMANN
614	CRACK OF NOON/HELLMANN
615	SHAKE HANDS WITH THE DEVIL/COOPER
616	TOM RYAN'S REPRISAL/HELLMANN
617	LEGO. KIDLY LIGHT/HELLMANN
618	THE DEFTWAY/LAVELY
619	THE CANAVAN ELIAS/HELLMANN
620	A PARTIAL IN ROM/HELLMANN
621	KOTTIC COURT/HELLMANN
622	FORBIDDEN A REE/HELLMANN
623	AN ONE OF RUPEE/HELLMANN
624	BEFORE THE SUN GOES DOWN/HELLMANN
625	DEVOTED LUSTERS/HELLMANN
626	REBELIA/CASPER
627	THE BRIDGE BETWEEN/HELLMANN
628	A BELL FOR ALONG/HELLMANN
629	THE SUN IS MY BRIDING/HELLMANN
630	WOMEL BRIDE/HELLMANN
631	I CAPTURE THE CALVE/HELLMANN
632	STREET IN THE NIGHT/HELLMANN
633	IF YOU ARE IT/HELLMANN
634	ONE FORTUNE OF ACHIEVE/HELLMANN
635	THE HOUSE OF ORIGIN/HELLMANN
636	AUTUMN UNDER EYES/HELLMANN
637	A LOAST TO LONG/HELLMANN
638	JUDGMENT DAY/HELLMANN
639	OUT OF THE NIGHT/HELLMANN
640	THE ANIMAL CATCHER/HELLMANN

NOVELS

641 RAINBOW ON THE ROAD/YORRES
 642 MEET D'YA KNOW FOR LURE/ZIEBERG
 643 THE UNKNOWN QUANTITY/VAN DYKE
 644 PRINCE OF FOXES/SHELLABARGER
 645 THE TRIANGLE SYKE/STEIN
 646 TWO ADOLESCENTS/VORAVIA
 647 A KILLER IN THE STREETS/NIELSEN
 648 A SCENT OF WHITE Poppies
 649 PAIR STOOD THE WIND FOR FRANCE/DATES
 650 AND HOW TO LIVE AGAIN/BARTON
 651 INNOCENTS FROM AFRICA/HARRIS
 652 LAMBTON HIGH/STAFF
 653 A TIME GROWN UPRIGHT/MARKS
 654 OUTBREAK OF LOVE/BOYD
 655 THE OPPSIDENT/CRONCH
 656 OUTRUM THE CONSOLE/JEFFSON
 657 THE HUN'S STORY/HOLME
 658 THE NYMPH AND THE LAMP/RADDELL
 659 THROTTLED PETER/HOBSON
 660 UNDER COVER/CARSON
 661 THE WISHING STAFF/JOHNSTON
 662 SINCERELY, WELLS WAYDE/MARQUAND
 663 GO, SAID THE BLIND/COTTERELL
 664 WHY NOT/HIDDERER
 665 NORTHERN LIGHTS/VERCEL
 666 THE SERGEANT/MURPHY
 667 THE WAYFARER'S TRICK/COVER & GRAFF
 668 ONE PERFECT ROSE/RYAN
 669 RATTEN'S CASTLE/CRONIN
 670 THE WITCH OF BLACKBIRD FORD/SPEARE
 671 A WIND IN THE DOOR/W'ENGLE
 672 LARRY
 673 TROPICAL PARADISE/SYNDERBY
 674 THE GREENH MIGHT/WYLLIE
 675 CROSS CREEK/RAWLINGS
 676 CRASH FLAVY/DIOLE
 677 THE DRIFTWAY/LIVELY
 678 VONDA ROSEGOOD/DORRMAN
 679 ON THE WAY TO THE JET/HALL
 680 THE OCCUPYING POWER/GRIFFIN
 681 WHEN THE BOUGH BREAKS/CARNEY
 682 THE WALL-TO-WALL TRAP/FREEDGOOD
 683 SALAH AND HIS AMBIGUOUS/HALL
 684 A SERIOUS INVESTIGATION/EGAN
 685 THE COMPOST HEAP/PARTY
 686 THE COMPOST HEAP/PARTY
 687 MASTER IN SICILY/MORLY
 688 ONCE IN VIENNA/DARK
 689 WHERE DO WE GO FROM HERE//LARRY
 690 WHEN BOTHER WAS A GIRL/DE ARMAND
 691 SO LITTLE TIME/MARQUAND
 692 THE SCOUTS OF RESCUE THE SCOUTS OF LOVE/PLINN
 693 A GRAVE OF ICE/CHENKINS
 694 ONE NOIZING IN THE WAR/HAMMER
 695 WILD RIVER/STRONG
 696 THE CAPTAIN/HAMTAC
 697 PARTS UNKNOWN/KEYES
 698 THE ARMY WIFE/SHEN
 699 THE CORPSE APPAR/DEASY
 700 SON AND HEIR/BECHER
 701 SON AND HEIR/BECHER
 702 FEELING IT/WHITTEMORE
 703 THE SHIP AND THE SHORE/BRUN
 704 THE PERCODY SISTERS OF SALE/STARK
 705 THE KING'S AGENT/CHARK
 706 THE WHISTLING SOLE/TURLEY
 707 THE WALLS OF JOLO/CAILLON
 708 THE WALL BETWEEN/PRADEN
 709 THE PASSION OF ROBERT BRONSON/ALONSO
 710 THE GLOWING LILY/MARXONA
 711 TAKE THIS WOMAN/RAYES
 712 RELOCATED CAVALIER/CRIDSEY

NOVELS

716 CHARLOTTE AND DR. JAMES/MCCRONE
 717 SOUTH WIND/DOUGLAS
 718 PARRISH/SAVAGE
 719 PATRICK KENTIGERN KEENAN/HUNTER
 720 PATH OF GHOSTS/MACLEOD
 721 THE REMAINS OF A FATHER/RAMSBOTHEAM
 722 CHOSEN COUNTRY/PASSOS
 723 SADDLE A THUNDERBOLT/SYKES
 724 THE CORIANDER/DILLON
 725 RALPH/PRICE
 726 THE SECOND TREE FROM THE CORNER/WHITE
 727 THE WHITE TOWER/ULLMAN
 728 THE CORIANDER/DILLON
 729 THE CONSTANT NYMPH/KENNEDY
 730 THE SOUND OF THUNDER/CALDWELL
 731 THE SECOND HAPPIEST DAY/PHILLIPS
 732 JOHNNY UNDER GROUND/MOYES
 733 TOWARD THE MORNING/ELLEN
 734 PUT THESE ANCHORS AWAY MY BOYS/MCGILL
 735 SOLAN/GORDON
 736 REPRISAL/GORDON
 737 A SAVAGE PLACE/SLAUGHTER
 738 PATTY AND THE SPOONHALL/GIRVAN
 739 THE RELUCTANT LANDLORD/CORBETT
 740 UNDERCOVER/CARLSON
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 743 WHAT WAY MY JOURNEY LIES/VENTON
 744 TALES FOR MALES/VITTOGERALD
 745 THE LABYRINTH/ROBERTS
 746 AN OPERATIONAL NECESSITY/GRIFFIN
 747 STORM HOUSE/MORRIS
 748 TOWARD THE MORNING/ELLEN
 749 HIS MAJESTY'S HIGHWAYMAN/CHIDSEY
 750 OVERDUE/CLIFFORD
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 760 ROLL RIVER/BOYD
 761 THE PRINCES/MALGONER
 762 C/O POSTMASTER/ST. GEORGE
 763 A PLACE WITHOUT TWILIGHT/FEISLERMAN
 764 PITTSBURGH PHIL/MASTROY & HUNTER
 765 PHOENIX/COOPER
 766 RETREAT FROM GLORY/LOCKHART
 767 THE OX-BOW INCIDENT/CLARK
 768 OUR GLAD/WARREN
 769 PLOUGH THE SEA/WILDER
 770 RIDDLE OF A LADY/GILBERT
 771 THE OUTSIDERS/ABBOTT
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 777 THE TONTINE/CONTAIN VOL. I
 778 THE WORLD'S GREATEST BOOKS/HARRISWORTH & McCLURE VOL. XI
 779 THE WORLD OF RICH/BOUSCH
 780 THE WHITE ROSE/WESTCOTT
 781 THE CROUDED SEA/SEARLS
 782 TOO LITTLE LOVE/LHENRIQUES
 783 STORM/STENHART
 784 THEY WERE EXPENDABLE/WHITE
 785 A WRINKLE IN TIME/L'ENGLE
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 787 THE TURTLE TREE/RESEY
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 797 WHEN THE MOUNTAIN FELL/RAMUE
 798 THE BIG COMPANY LOOF/HOWELLS
 799 THE BIG COMPANY LOCK/HOWELLS
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 801 MURDER ONE, TWO, THREE/CHEASBY
 802 SAXON'S GHOST/FISHER
 803 AN EPISODE OF SPARKS/GODDEN
 804 GREATEST SHORT STORIES/VOL IV
 805 THE BRIDGE OF DESIRE/DEEPPING
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 807 THE DARK RIVER/MALLIN
 808 LOW MAN ON A TOTEM POLE/SMITH
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 811 LOVE'S COMING OF AGE/CARTER
 812 BOMBA THE JUNGLE BOY/TERROR TRAIL/ROCKWOOD
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 814 VOYAGES OUT/ROLLINS
 815 VOYAGES OUT/ROLLINS
 816 VOYAGES OUT/ROLLINS
 817 VOYAGES OUT/ROLLINS
 818 THE TREE THAT LOST ITS HEAD/MONTEGAT
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 820 AIR WORDS/HAMANN
 821 THE ADVENTURERS/ROLLINS
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 836 DEATH OF SIR HARRY
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 SOUTH EAST ASIA ATLAS
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 COTTON IN MY SACK/LEHNEY

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THE THIRD SECTOR/LEVITT
 HOW TO REALLY KNOW YOURSELF THROUGH YOUR HANDWRITING/SOLONOW
 PERSONAL FINANCIAL PLANNING FOR EXECUTIVES/LYONS
 HOW TO MANAGE BY OBJECTIVES/MUNNLE
 LETTERS FOR ALL OCCASIONS/MYERS
 VIOLENCE/ELLUL
 AUTOMATION AND TECHNOLOGICAL CHANGE/DUNLOP
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ANIMALS AND OTHERS

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 MEDIEVAL ARCHAEOLOGY VOLUME XIX 1975
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 HARVEST OF HOLIDAYS/MARTIGNONI
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 MAGIC IN THE AIR/MARTIGNONI
 GIFTS FROM THE PAST/MARTIGNONI
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 IN YOUR OWN BACKYARD/MARTIGNONI
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 KIRAM MAKES FRIENDS/CASEY
 HARRY IS A SCAREDY CAT/BALTON
 THE BOY, THE BAKER, THE MILLER AND MORE/DERSON
 IWM, LITTLE MONKEYS, RUN, RUN, RUN, /KEPES
 THE SEAL AND THE SLICK/FREEMAN
 SECTOR PENGUIN/PATIO*DUVOISCH
 JUST A BOX/CHERNOFF
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 THERE REALLY WAS A DODO/GORDON
 THE RED FIRE BOOK/TRAVERS
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 En La Ciudad - Faulkner
 Calidoscopio En X - Cronin
 La Dama De Los Clauelles " "
 Los Escandolas De Crome - Huxley
 La Envoladura Humana - Huxley
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Teatro Completo
El Anticuaria - Scott
Propios
La Peste Dioses - Asimov (2 Copies)
La Peste Escarlata Yotres Cuantos - London (2 Copies)
Cuantos De Navidad - Dickens

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Books in Spanish - Continued:

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La Vuelta En Ochenta - Dias - Verne

Olive Twist - Dickens

Miguel Strogoff - Verne

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El Hombre Que Rie - Hago (2 Copies)

Topaz - Uris (2 Copies)

Exh X-2 A 2653

FEDERAL PRISON SYSTEM

METROPOLITAN CORRECTIONAL CENTER
NEW YORK, NEW YORK 10007



Policy Statement

SUBJECT: INMATE DISCIPLINE

NUMBER
NY 7400.5D

DATE
4-5-76

1. PURPOSE. This statement of policy is to assure that inmate discipline and control are fully consonant with the correctional objectives of the institution, the focus being on (a) individual inmate adjustment to the program, behavior standards, and limitations necessarily imposed by the administration; (b) the general welfare and safety of the institutional community; and, (c) the incorporation of due process standards for inmate disciplinary hearings as prescribed by the Supreme Court in Wolff v. McDonnell, 418 U.S. 528, 94 S. Ct. 2963, 1 L. Ed 2nd 935 (1974).

2. DIRECTIVES AFFECTED. Policy Statements 7400.5C and 7400.6A are superseded.

3. POLICY. It is the policy of the Federal Bureau of Prisons to maintain an institutional climate in all of its facilities so that every inmate may complete his term of confinement with a minimum of corrosive effect and a maximum gain in his ability to more adequately maintain a successful community adjustment following release. In order that the majority of inmates might live in a safe and orderly environment, it is necessary that those individuals whose behavior is in noncompliance with institution rules be brought to the attention of the appropriate authorities.

Disciplinary action is but one factor in correctional treatment and control. There are other individualized correctional programs and goals that shall be given consideration by the administration. The objective of this approach is the future voluntary acceptance of institution regulations which are required for the general welfare of the institution community and serve as an aid to law-abiding behavior following release.

4. ACTION. A single Institution Discipline Committee is established at the Metropolitan Correctional Center, New York, New York. In the event of a serious disturbance or other emergency, or if an offense is committed in the presence of the Committee, the Chief Executive Officer may establish more than one Institution Discipline Committee with approval of the Northeast Regional Director. The Committee will be composed of at least three (3) members, of whom two (2) will be of department head level or above. These members will be 1) Chief Correctional Supervisor, 2) Executive Assistant, or, in his absence, a designated replacement, 3) Rotating Department Head or Assistant Department Head. The Chief Correctional Supervisor is designated as the Chairman of the Committee. The Executive Assistant will chair the committee in his absence. The Associate Warden (Program) will have the responsibility to periodically monitor committee meetings and insure adherence to this Policy Statement.

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The Chief Executive Officer of this institution delegates to the Institution Discipline Committee the authority to order an inmate placed or retained in disciplinary segregation, to order the withholding or forfeiture of good time, to order an inmate transferred for disciplinary reasons, and to make recommendations to the U.S. Board of Parole for rescission or retardation of parole grants. The Board, however, may request the Institution Discipline Committee to hold a fact finding hearing in any case whenever the Board deems it necessary to determine whether a parole grant is to be rescinded or retarded. In study cases (4208(b), 4252, 5010(e), 5037(c)), any report of disciplinary action to the sentencing judge must be preceded by a hearing in accordance with paragraph 9 of this Policy Statement. The authority to impose sanctions other than disciplinary segregation, withholding or forfeiture of good time, transfer for disciplinary reasons, and to make recommendations to the U.S. Board of Parole for rescission or retardation of parole grants, will be lodged with the Unit Management Disciplinary Committee.

This institution will establish special housing units consisting of two types: Administrative Detention and Disciplinary Segregation.

- a. Administrative Detention. An inmate may be placed in Administrative Detention when his attitude and conduct indicate that his continued presence in the general population poses a serious threat to life, property, himself, staff, other inmates or to the security of the institution, and when the inmate:
- (1) Is pending a hearing for a violation of institution rules or regulations;
 - (2) Is pending an investigation of a violation of institution rules or regulations;
 - (3) Is pending investigation or trial for a criminal act;
 - (4) Requests admission to Administrative Detention for his own protection or the staff determines that admission to or continuation in Administrative Detention is necessary for the inmate's own protection;
 - (5) Is pending transfer or is in holdover status during transfer; or
 - (6) Is pending classification or the gathering of information on the nature of an individual's offense, bail and prior record.
- b. Segregation. An inmate may be placed in Disciplinary Segregation when his continued presence in the general population poses a serious threat to himself, staff, or other inmates or to the security of the institution and when the Institution Discipline Committee

directs following a hearing conducted in accordance with the limited due process requirements as outlined in paragraph 9 of this Policy Statement in which the inmate has been found to have committed a serious violation of institution rules or regulations.

5. GENERAL PRINCIPLES. The following general principles shall be applicable in every disciplinary action taken:
- a. Disciplinary action shall be taken at such times and in such measures and degree as is necessary to regulate an inmate's behavior within acceptable limits;
 - b. Inmate behavior shall be controlled in a completely impartial and consistent manner;
 - c. Disciplinary action shall not be capricious, retaliatory, or for the purpose of revenge;
 - d. Corporal punishment of any kind is strictly prohibited; and
 - e. Accurate, detailed reports of disciplinary actions shall be maintained in accordance with the requirements of this Policy Statement.
6. INFORMATION TO INMATES. Each inmate is to be advised in writing at the time of arrival at the institution of:
- a. His rights and responsibilities
 - b. Acts prohibited in the institution;
 - c. The types of disciplinary action which may be taken; and
 - d. The disciplinary system within the institution.

This information will be provided in booklet or pamphlet form as part of the Receiving process. Unit Managers are encouraged to develop more detailed handouts for each unit to be handed out in Receiving and Discharge. A signed receipt will be obtained from each inmate acknowledging that he has received a copy of the booklet or pamphlet. This receipt will be placed in the inmate's central file folder.

e. Rights and Responsibilities.

RIGHTS

- (1) You have the right to expect that as a human being you will be treated respectfully, impartially, and fairly by all personnel.

RESPONSIBILITIES

- (1) You have the responsibility to treat others, both employees and inmates, in the same manner.

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- (2) You have the right to be informed of the rules, procedures, and schedules concerning the operation of the institution.
- (3) You have the right to freedom of religious affiliation, and voluntary religious worship.
- (4) You have the right to health care which includes nutritious meals, proper bedding and clothing, and a laundry schedule for cleanliness of the same, an opportunity to shower regularly, proper ventilation for warmth and fresh air, a regular exercise period, toilet articles and medical and dental treatment.
- (5) You have the right to visit and correspond with family members, and friends, and correspond with members of the news media in keeping with the facility rules and schedules. You also have a right to uncensored and uninspected outgoing correspondence with members of the news media through the Prisoners' Mail Box System. Letters forwarded to the news media through PMB are subject to the regulations of that System.
- (6) You have the right to unrestricted and confidential access to the courts by correspondence (on matters such as the legality of your conviction, civil matters, pending criminal cases, and to conditions of your imprisonment).
- (7) You have the right to legal counsel from an attorney of your choice by interviews and correspondence.
- (8) You have the right to participate in the use of law library reference materials to assist you in resolving legal problems. You also have the right to receive help when it is available through a legal assistance program.
- (2) You have the responsibility to know and abide by them.
- (3) You have the responsibility to recognize and respect the rights of others in this regard.
- (4) It is your responsibility to not waste food, to follow the laundry and shower schedule, to maintain neat and clean living quarters, and to seek medical and dental care as you may need it.
- (5) It is your responsibility to conduct yourself properly during visits, to not accept or pass contraband, and to not violate the law through your correspondence.
- (6) You have the responsibility to present honestly and fairly your petitions, questions, and problems to the court.
- (7) It is your responsibility to use the services of an attorney honestly and fairly.
- (8) It is your responsibility to use these references in keeping with the procedures and schedule prescribed and to respect the rights of other inmates to the use of the material.

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- (9) You have the right to a wide range of reading material for educational purposes and for your own enjoyment. These materials may include magazines and newspapers sent from the publishers.
- (9) It is your responsibility to seek and utilize such materials for your personal benefit, without depriving others of their equal rights to the use of this material.
- (10) You have the right to participate in education, vocational training, and employment as far as resources are available, and in keeping with your interests, needs, and abilities.
- (10) You have the responsibility to take advantage of activities which may help you live a successful and law abiding life within the institution and in the community. You will be expected to abide by the regulations governing the use of such activities.

f. Prohibited Acts in Federal Penal and Correctional Institutions

- 001 Killing
002 Assaulting any person
003 Fighting with another person
004 Threatening another with bodily harm, or with any offense against his person or his property
005 Extortion, blackmail, protection: demanding or receiving money or any thing of value in return for protection against others, to avoid bodily harm, or under threat of informing
- 051 Engaging in sexual acts with others
052 Making sexual proposals or threats to another
053 Indecent exposure
- 101 Escape
102 Attempting or planning escape
103 Wearing a disguise or mask
- 151 Setting a fire
152 Destroying, altering, or damaging government property, or the property of another person
153 Stealing (theft)
154 Tampering with or blocking any locking device
155 Alteration of any food or drink
- 201 Possession or introduction of an explosive or any ammunition
202 Possession or introduction of a gun, firearm, weapon, sharpened instrument, knife, or unauthorized tool
203 Possession, introduction, or use of any narcotics, narcotic paraphernalia, drugs, or intoxicants not prescribed for the individual by the medical staff
204 Misuse of authorized medication

- 205 Possession of money or currency, unless specifically authorized
- 206 Possession of property belonging to another person
- 207 Loaning of property or anything of value for profit or increased return
- 208 Possession of any thing not authorized for retention or receipt by the inmate, and not issued to him through regular institutional channels
- 209 Possessing any officer's or staff clothing
- 210 Possessing unauthorized clothing
- 211 Mutilating or altering clothing issued by the government

- 251 Rioting
- 252 Encouraging others to riot
- 253 Engaging in, or encouraging, a group demonstration
- 254 Refusing to work, or to accept a program assignment
- 255 Encouraging others to refuse to work or participate in work stoppage
- 256 Refusing to obey an order of any staff member
- 257 Violating a condition of furlough

- 301 Unexcused absence from work, or any assignment
- 302 Languishing, feigning an illness
- 303 Failing to perform work as instructed by a supervisor
- 304 Insolence towards a staff member
- 305 Lying or providing a false statement to a staff member
- 306 Conduct which disrupts or interferes with the security or orderly running of the institution

- 351 Counterfeiting, forging, or unauthorized reproduction of any document, article of identification, money, security, or official paper

- 401 Participating in an unauthorized meeting or gathering
- 402 Being in an unauthorized area

- 451 Failure to follow safety or sanitation regulations
- 452 Using any equipment or machinery which is not specifically authorized
- 453 Using any equipment or machinery contrary to instructions or posted safety standards

- 501 Failing to stand count
- 502 Interfering with the taking of count

- 551 Making intoxicants
- 552 Being intoxicated
- 553 Smoking where prohibited
- 554 Using abusive or obscene language

- 601 Gambling
- 602 Preparing or conducting a gambling pool
- 603 Possession of gambling paraphernalia

- 651 Being unsanitary or untidy: failing to keep one's person and one's quarters in accordance with posted standards
- 652 Tattooing or self-mutilation
- 701 Unauthorized use of mail or telephone
- 702 Unauthorized contacts with the public
- 703 Correspondence or conduct with a visitor in violation of posted regulations
- 751 Giving or offering any official or staff member a bribe, or any thing of value
- 752 Giving money or any thing of value to, or accepting money or any thing of value from; another inmate, a member of his family, or his friend
- 801 Attempting to commit any of the above offenses, aiding another person to commit any of the above offenses, and making plans to commit any of the above offenses shall be considered the same as a commission of the offense itself

7. INCIDENT REPORT AND INVESTIGATION.

a. Incident Report.

Informal resolution of incidents involving violations of institution rules and regulations is encouraged. However, where an employee witnesses or has a reasonable belief that violation of institution rules or regulations has been committed by an inmate, and where the employee deems that informal resolution of the incident is unwarranted, the employee shall prepare an incident report and forward it to the Correctional Supervisor on duty. The Correctional Supervisor may informally dispose of the incident report or forward the incident report for further disposition to the Unit Disciplinary Committee.

The reporting employee should complete Part 1 of the incident report immediately. The incident is to be one of the Prohibited Acts listed in paragraph 6f. of this Policy Statement. The entire language of the Prohibited Act(s) does not have to be copied. Only the relevant portion need be used. For example, "Destroying Government Property, Code No. 152," "Possessing narcotics, Code No. 801" would be acceptable listings for appropriate charges.

The description of the incident should contain the details of the activity which is being reported. All facts about the incident which are known by the employee should be recorded. If there is anything unusual about the inmate's behavior, this should be noted. The reporting employee should also list any staff or inmate witnesses to the incident, and the disposition of any physical evidence (weapons, property, and etc.) which the employee may have personally handled. The reporting employee will sign the report and indicate his title in the appropriate blocks. The incident report should then be forwarded to the shift Correctional

Supervisor for disposition.

b Investigation.

The investigation should be conducted within 24 hours of appointment of investigator, unless circumstances beyond the control of the investigator intervene. The investigating officer should ordinarily be an employee of supervisory level and may not be the employee reporting the particular incident in question. Where it appears likely that the incident may be the subject of a criminal prosecution, investigation should be suspended until the inmate should not be questioned until the FBI interview has been completed. (See Policy Statement 2200.1.) Correctional Supervisors should make an effort to complete investigations on all incidents submitted during their shift. When an overlap occurs, personal contact must be made with the replacing Supervisor so that he is fully advised of the status of all investigations or reports.

Ordinarily, an inmate will be given a copy of the incident report by the investigating officer at the beginning of the investigation. If the investigation is delayed for any reason, any employee may deliver the charges to the inmate. The date and time the inmate receives a copy of the incident report will be noted. This should be done within eight (8) hours from the time the investigator received his assignment, unless there are exceptional circumstances which prevent it. Under most circumstances, an inmate must be given a copy of charges filed against him within 24 hours of the alleged infraction. The investigator should also read the charges to the inmate and obtain his statement concerning the incident, except as provided above. Comment about the inmate's attitude may be included here.

The investigator should then thoroughly investigate the incident. He should talk to witnesses, and summarize their statements. The disposition of evidence should be recorded. Often, he will want to talk to the reporting employee to obtain his report first hand and to clarify any questions the investigator may have. All steps and actions taken should be recorded on the incident report.

Under Comments and Conclusions, the investigator may include his comments on the inmate's prior record and behavior, his analysis of any conflicts between witnesses, and his conclusions of what in fact happened. The inmate does not receive a copy of the investigation. However, should the case ultimately be forwarded to the Institution Discipline Committee, the investigation should be given to the inmate's staff representative for use in presentation on the inmate's behalf.

8. MINOR DISPOSITIONS. The authority to impose minor dispositions and sanctions for violations of institution rules or regulations is delegated to staff members of an inmate's unit (Unit Management Team). These staff members make up the Unit Disciplinary Committee which has the authority to

impose minor dispositions and sanctions. Minor dispositions and sanctions are those actions imposed for violation of institution rules or regulations other than segregation, withholding or forfeiture of good time, transfer for disciplinary reasons, or recommendations to the U.S. Board of Parole for rescission or retardation of parole grants. The Unit Team is composed of the Unit Manager, Correctional Counselor, Case Manager, and Administrative Assistant. Any one or more of these staff members may sit as a Unit Disciplinary Committee. While the process by which minor dispositions are imposed is left to the discretion of the Chief Executive Officer of each institution, the following minimum standards apply throughout the Bureau of Prisons.

- a. Each inmate charged with violating an institution rule or regulation shall be given a written copy of the charges against him within 24 hours of the infraction.
- b. Each inmate so charged will be entitled to a hearing before someone other than the reporting or investigating officer, held within 48 hours (excluding weekends and holidays) of the incident to consider the charge brought against him.
- c. The inmate will be entitled to be present at the hearing except during deliberations of the decision makers and where institutional security would be jeopardized. The reasons for excluding an inmate from the hearing must be well documented in the record.
- d. The inmate will be afforded the opportunity to make a statement and to present documentary evidence in his own behalf.
- e. The inmate will be given a written copy of the decision and disposition. Review of any action taken as a minor disposition will be pursuant to the Administrative Remedy Procedure, Policy Statement 2001.6A.
- f. Where an alleged violation of institution rules or regulations warrants consideration for other than minor sanctions, the charge may be referred to the Institution Discipline Committee for hearing and disposition. Copies of all relevant documents should be forwarded to the Chairman of the Institution Discipline Committee with a brief statement of reasons for the referral along with any recommendations for appropriate disposition should the inmate be found to have committed the act charged. The inmate whose charge is being referred to the Institution Discipline Committee may be retained in Administrative Detention or other restricted status, but should have no final disposition imposed if the matter is referred to the Institution Discipline Committee.
- g. When charges are to be referred to the Institution Discipline Committee, the inmate shall be advised of the rights afforded at a hearing before the Institution Discipline Committee. He shall be asked to indicate his choice of staff representative and the names of any witnesses he wishes to be called to testify on his behalf at the hearing. (A sample form that may be used for this purpose is attached to the Policy Statement.)

- h. The Unit Disciplinary Committee will be responsible for notifying the staff member selected by the inmate as his representative prior to the appearance before the Institution Discipline Committee.
- i. Where the Unit Disciplinary Committee determines that the inmate is innocent of committing any prohibited act, the inmate's file shall be expunged of the incident report lodged against him.
- j. Time limits imposed in this section may be extended for good cause.

9. INSTITUTION DISCIPLINE COMMITTEE.

- a. Composition. The Institution Discipline Committee shall consist of (1) the Chief Correctional Supervisor, (2) Executive Assistant, or, in his absence, a designated replacement, and (3) Rotating Department Head or Assistant Department Head. The Chief Correctional Supervisor or Acting Correctional Supervisor is designated as the Chairman. The Executive Assistant will serve as Chairman in his absence. All three members, including the Chairman, must be present at any hearing to constitute a quorum. The Chairman and no less than one member present at the hearing will be of the department head level or higher. The third member of the Committee need not be of the department head level. For the purpose of this section, "department head" includes acting department head. This requirement as to the level of staff members and Chairman will not apply to the Community Treatment Center. In order to insure impartiality, a staff member may not sit as a member of the Institution Discipline Committee if he reported or investigated the incident of rules infraction being considered. Ordinarily a staff member witnessing an incident under consideration should not sit as a member of the Institution Discipline Committee. However, a staff member witnessing an incident may sit as a member of the Institution Discipline Committee where the incident is so widely witnessed that virtually every staff member has witnessed it in whole or in part. Likewise, a staff member may not sit as a member of the Institution Discipline Committee if he played any significant part in having the charges referred to the Institution Discipline Committee for consideration. The Chief Executive Officer will appoint members to this Committee who are broadly representative of the primary areas of institutional administration and who are fully knowledgeable of the requirements of this Policy Statement and of the functions of inmate discipline.
- b. Functions. The Institution Discipline Committee shall conduct hearings, make findings, and may impose appropriate sanctions on incidents of inmate misconduct referred to it for disposition following a hearing as required by paragraph 8 of this Policy Statement before the Unit Discipline Committee in accordance with the due process standards as listed below. The Institution Discipline Committee may not hear any case or impose any sanctions (except as provided in paragraph 9d.(4), continuing offenses) not heard and referred by the unit committee. Findings of the Committee that an inmate has committed a prohibited

act must be based on a substantial factual basis: i.e., based on sufficient evidence from which it can be concluded that the particular individual committed the prohibited act charged. While this Committee may impose any lesser sanctions available, only this Committee will have the authority to order: (1) an inmate placed in disciplinary segregation, (2) an inmate's good time withheld or forfeited, (3) an inmate transferred to another institution for disciplinary reasons, or (4) to recommend to the U.S. Board of Parole that an inmate's parole grant be retarded or rescinded. This Committee will also conduct reviews of inmates placed in disciplinary segregation in accordance with the requirements listed below.

- c. Procedural Requirements. An inmate may not be placed in disciplinary segregation, have his good time withheld or forfeited, be transferred to another institution for disciplinary reasons, or have the Bureau recommend retardation or rescission of a parole grant unless there has been a fact-finding hearing before the Institution Discipline Committee in which the following procedures have been satisfied:

- (1) An inmate will be given advance written notice of the charge(s) against him no less than 24 hours before his appearance before the Institution Discipline Committee. An inmate may waive in writing this 24 hour notice requirement.
- (2) An inmate will be provided the service of a full-time staff member to represent him at the hearing before the Institution Discipline Committee should he so desire. The staff representative will be available to assist the inmate if he desires by speaking to witnesses and by presenting favorable evidence to the Committee on the merits of the charges. The staff representative will also assist in presenting evidence in extenuation or mitigation of the charges. The Chairman shall arrange for the presence of a selected staff representative. If the staff member selected declines or is unavailable because of absence from the institution, the inmate should be given the options of selecting another representative, or in the case of an absent staff member, of waiting a reasonable period of time for his return, or continuing the hearing without a staff representative. Where an inmate who is illiterate requests a staff representative or where an inmate facing complex charges requests staff representation, but staff members decline this role, the Chief Executive Officer shall appoint a staff representative to assist such inmate. A staff representative should be given adequate time to speak with the inmate and interview requested witnesses where appropriate. While it is expected that a staff member will have had ample time to prepare prior to the hearing, delays in the hearing to allow for adequate preparation may be ordered by the Chairman of the Institution Discipline Committee.
- (3) An inmate will be permitted to have witnesses called and to present documents in his behalf, provided the calling of witnesses or the disclosure of documentary evidence would not jeopardize

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or threaten institutional security. The Chairman will call those witnesses he deems reasonably available and necessary for an appreciation of the circumstances surrounding the charge. Repetitive witnesses need not be called. Unavailable witnesses may be asked to submit written statements. Reasons for declining to call requested witnesses will be documented in the Committee's report. Witnesses requested by the inmate who are called should be questioned by his staff representative or where staff representation has been waived, by members of the Committee. Inmates who have waived the services of a staff representative may submit questions for requested witnesses in writing to the Committee.

- (4) The Institution Discipline Committee will prepare a record of its proceedings which need not be verbatim. This record must be sufficient to document the advisement of inmate's rights, the Committee's findings, the Committee's decision, the specific evidence relied on by the Committee, and a brief statement of the reasons for the sanctions imposed. The evidence relied upon for the decision and the reasons for the actions taken should be set out in specific terms unless doing so would jeopardize institutional security. (A sample form that may be used to advise an inmate of his rights at an Institution Discipline Committee hearing is attached to this Policy Statement.)
- (5) An inmate will be permitted to be present throughout the Institution Discipline Committee hearing except during deliberations of the Committee and except where institutional security would be jeopardized. The reasons for excluding an inmate from the hearing must be well documented in the record. A hearing may be conducted in the absence of an inmate where the inmate refuses to appear and he can not be brought to the hearing without the use of force. When an inmate escapes from custody, the Institution Discipline Committee will conduct a hearing in the inmate's absence at the institution from which the escape occurred. When an inmate who has had sanctions imposed (such as loss of good time) while absent from custody, returns to custody, he will be advised of his right to have the escape charge brought before the Institution Discipline Committee at the institution where he returned to custody. All the procedural requirements of Institution Discipline Committee hearings will apply to this rehearing except written statements of witnesses not readily available may be liberally used instead of live witnesses. The Institution Discipline Committee, upon rehearing, may dismiss the charge, or may modify but may not increase the sanctions previously imposed in the inmate's absence.

- c Dispositions of the Institution Discipline Committee: The Institution Discipline Committee shall have available a broad range of sanctions and dispositions. These dispositions and sanctions will include the following:

The Institution Discipline Committee may

- (1) Dismiss any charge(s) before it where appropriate and shall order the record of charges expunged where the inmate has been determined innocent of the charge(s).
- (2) Impose sanctions and dispositions available to the person or persons designated to impose minor dispositions.
- (3) Direct that an inmate be placed or retained in disciplinary segregation pursuant to guidelines contained in this policy statement.
- (4) Direct that an inmate's good time be withheld. Withholding of good time should be limited to misconduct or offenses; it should not be applied as a universal punishment to all persons in disciplinary segregation status. Withholding shall be limited to the good time creditable for the single month during which the violation occurs. (Some offenses, such as refusal to work at an assignment, may be recurring, and thus may permit consecutive withholding actions.) Withheld good time must be considered for restoration on or about six (6) months from the date of the offense which formed the basis of the withholding. Withheld good time may be considered for restoration earlier than the six (6) month date if circumstances warrant.
- (5) Direct that an inmate's good time be forfeited. The good time available for forfeiture is limited to an amount computed by multiplying the number of months served at the time of the offense for which forfeiture action is taken, by the applicable monthly rate specified in 18 United States Code, Section 4161 (less any previous forfeiture or withholding outstanding), plus extra good time which may have been earned to the date of the offense. All or part of an inmate's accumulated good time may be forfeited. Authority to restore all types of forfeited and withheld good time is delegated to the Institution Discipline Committee of each institution. Forfeited good time must be considered for restoration on or about one (1) year from the date of the offense which formed the basis of the forfeiture. Forfeited good time may be considered for restoration earlier than the one (1) year date if circumstances warrant.

- (6) Direct that an inmate be transferred to another institution for disciplinary reasons. Where a present or impending emergency requires immediate action, an inmate may be transferred prior to an Institution Discipline Committee hearing. However, a hearing before the Institution Discipline Committee at the receiving institution must be conducted as soon as practicable under the circumstances to consider the factual basis of the charge of misconduct and the reasons for the emergency transfer. Transfers for disciplinary reasons prior to a hearing before the Institution Discipline Committee are to be used only in emergency situations and only with the approval of the receiving Regional Director. However, when an inmate is transferred under these circumstances, the sending institution will forward copies of incident reports with completed investigation to the receiving institution's Institution Discipline Committee. All procedural requirements applicable to Institution Discipline Committee hearings contained in paragraph 9c. of this Policy Statement will be utilized, except written statements of unavailable witnesses may be liberally accepted instead of live testimony.
- (7) Suspend the execution of any sanction it imposes.
- (8) Make recommendations to U.S. Board of Parole for retardation or rescission of parole grants and hold fact finding hearings upon request of the Board as set forth in paragraph 4 above.
- e. Criminal Prosecutions. Where an inmate's misconduct may also be the subject of a criminal prosecution, it is not necessary to await the outcome of the criminal trial before taking disciplinary action, especially if there is reason to believe there will be a long delay before the trial is held. An inmate under investigation of the FBI or other law enforcement officers for an offense committed in the institution may not be questioned about the charge until the FBI interviews are completed. An inmate who is the subject of criminal prosecution for institutional violations will not be transferred from the jurisdiction of the trial court without the consent of the appropriate United States Attorney or the Court in which the trial is pending.
- f. Expunging Records. As set forth in paragraph 8h. and subparagraph 4.(1) of this paragraph, an inmate's file shall be expunged of the disciplinary report against him whenever he is found not to have committed a prohibited act. The requirement for expunging the inmate's file does not preclude maintaining copies of disciplinary actions resulting in "not guilty" findings in a master file separate from the inmate's institution file provided the contents of the master file are not used in any manner which would adversely affect the inmate. Likewise, the expungement requirement does not require

the destruction of medical reports or Special Housing Report Forms relating to a particular inmate which must be maintained to document medical treatment given in a Special Housing Unit. There may be situations where an inmate's conduct during one continuous incident violates more than one prohibited act. If these violations are reported on a single incident report, it could be the finding of the committee that not all acts were committed as charged while others were. Under these circumstances, the record will clearly show what violations were not proven. No further expunging is possible or necessary. The existence of charged but unproven misconduct will not be used against the inmate.

10. APPEALS FROM INSTITUTION DISCIPLINE COMMITTEE ACTIONS. At the time the Institution Discipline Committee gives an inmate notice of its decision, the Committee will also advise the inmate that he may appeal the Committee's decision to the Chief Executive Officer. Appeals must be filed no later than thirty (30) days after notice of the decision. This time limit may be extended for good cause shown. An inmate wishing to appeal any disciplinary action imposed as a result of a hearing before the Institution Discipline Committee must use the procedures and forms provided for by Policy Statement 2001.6A (Administrative Remedy of Complaints Initiated by Offenders in Bureau of Prisons Facilities). The Chief Executive Officer may approve, modify, or reverse any disciplinary action of the Institution Discipline Committee as he deems appropriate. This authority may not be delegated. The Chief Executive Officer may not increase the amount of forfeiture imposed.

An inmate may appeal an adverse decision of the Chief Executive Officer through the appeal procedures contained in Policy Statement 2001.6A to the appropriate Regional Director. Appeals to the Regional Director from adverse decisions from the Chief Executive Officer must be filed no later than thirty (30) days from the date of the Chief Executive Officer's decision.

Additionally, appeals of adverse decisions from the Regional Director may be made to the General Counsel, Bureau of Prisons, Washington, D.C. within thirty (30) days of the decision from the Regional Director.

On appeal, the following factors will be considered:

- a. Was there substantial compliance with the Policy Statement on Inmate Discipline?
- b. Was the decision of the Institution Discipline Committee based on substantial evidence?
- c. Under the circumstances, was the sanction imposed disproportionate to the offense?

11. SPECIAL HOUSING UNITS. This institution will establish special housing units consisting of two types: Administrative Detention and Disciplinary Segregation. Special Housing Units will be maintained in accordance

with the policies and procedures contained in this Policy Statement.

- a. Administrative Detention. Administrative Detention is the status of confinement which results in a loss of some privileges which the inmate would have if assigned to the general population. Generally a person placed in Administrative Detention will be locked in his or her own room on the unit where he or she is normally assigned. Persons assigned to open dormitories will have to be transferred from their units to 9-South when it is determined that Administrative Detention is required. Occasionally it may be necessary to use rooms on 9-South for Administrative Detention even when a person occupies a single room on another floor. This might be done for protection purposes, for example, or when an individual's continued presence on the floor might cause a disruption of normal activity.

Administrative Detention is to be used only where the continued presence of the inmate in general population poses a serious threat to life, property, himself, other inmates, staff members or the security of the institution.

- (1) Placement in Administrative Detention. An inmate may be placed in Administrative Detention by Correctional Supervisors, shift supervisors, or members of an inmate's unit management team (Unit Manager, Correctional Counselor, Case Manager). The Correctional Supervisor of the Watch must be notified immediately when an inmate is placed in Administrative Detention. An inmate may be placed in Administrative Detention when his attitude and conduct indicate that his continued presence in the general population poses a serious threat to life, property, himself, staff, other inmates or to the security of the institution and when the inmate:
- (a) Is pending a hearing for a violation of institution rules or regulations;
 - (b) Is pending an investigation of a violation of institution rules or regulations;
 - (c) Is pending an investigation or trial for a criminal act;
 - (d) Requests admission to Administrative Detention for his own protection or the staff determines that admission to or continuation in Administrative Detention is necessary for the inmate's own protection;
 - (e) Is pending transfer or is in holdover status during transfer; or
 - (f) Is pending classification.

A memorandum detailing the reason for placing an inmate in Ad-

ministrative Detention will be prepared and given to members of the inmate's unit management team, with a copy to the Operations Supervisor. When an inmate is moved off the floor where he normally resides, the Unit Manager on the receiving floor must also be given a copy of the memo or report. A copy of this memorandum will also be given to the inmate provided institutional security is not thereby compromised.

- (2) Review of Inmates Housed in Administrative Detention. Members of the inmate's unit management team are delegated the authority to review the status of inmates housed in Administrative Detention. The unit team will have the reviewing authority in these cases. When a person is moved off from the floor where he or she normally resides for the purpose of Administrative Detention, the original unit management team must conduct the appropriate reviews. Initial placement will be accomplished by means of a memorandum detailing the reasons for this action. The reviewing authority will formally review the status of each inmate who spends seven (7) continuous days in Administrative Detention and thereafter such cases will be reviewed on the record each week and will be formally reviewed at least every thirty (30) days. The inmate shall appear before the reviewing authority at such formal reviews unless the inmate refuses to appear without the use of force. Administrative Detention is to be used only for short periods of time except where an inmate needs long-term protection. An inmate may be kept in Administrative Detention for longer-term protection where the need for such protection is well documented. (See P.S. 7900.51.) Inmates shall be released when the reasons for their initial placement cease to exist or where their return to general population would no longer pose a serious threat to themselves, to staff or other inmates or the security of the institution. (A standardized form "Special Housing Review" is attached.) This form should be used by the unit committee for "formal reviews" as well as "on the record reviews" according to the schedule outlined. When a person is released from Administrative Detention, the review summaries must be placed in the inmate's central file.
- (3) Conditions of Administrative Detention. The basic level of conditions as described below for Disciplinary Segregation will also apply to Administrative Detention. To the extent possible, inmates housed in Administrative Detention will be afforded the same general privileges given to inmates in general population as is consistent with existing resources available and the security needs of the unit. Unless there are compelling reasons to the contrary, commissary privileges, reasonable amounts of personal property, and exercise periods exceeding those provided for inmates housed in Disciplinary Segregation will be provided. Visiting and correspondence privileges of the general population will be given inmates in Administrative Detention.

- (4) Temporary Placement in Administrative Detention. An inmate who is causing a serious disruption (threatening life or property) in Administrative Detention, who cannot be controlled within the physical confines of Administrative Detention, and who cannot be safely transferred to the institution hospital, may be moved temporarily (not exceeding three (3) days) to Disciplinary Segregation pending a hearing before the Institution Disciplinary Committee. The authority to order the temporary move into Disciplinary Segregation is limited to the official in charge of the institution at the time the move is ordered. A fully documented report of every such movement shall be immediately forwarded to the appropriate Regional Director.

1. Disciplinary Segregation. Disciplinary Segregation is the status of confinement of an inmate housed in an individual cell either by himself or with other inmates, separated from the general population, as a result of a hearing before the Institution Discipline Committee in which the inmate has been found to have committed a prohibited act. Inmates housed in Disciplinary Segregation will have significantly fewer privileges than those housed in Administrative Detention. Disciplinary Segregation is to be used only where other available dispositions are inadequate to regulate an inmate's behavior within acceptable limits and where the inmate's presence in the general population poses a serious threat to life, property, to himself, staff or other inmates or the security of the institution.

- (1) Placement in Disciplinary Segregation. An inmate may be placed in Disciplinary Segregation only by direction of the Institution Discipline Committee following a hearing in which the inmate has been found to have committed a serious act of misconduct which warrants this serious sanction. Inmates found to have committed serious acts of misconduct should not be placed in Disciplinary Segregation unless their presence in general population would pose a serious threat to staff or other inmates or to the security of the institution.
- (2) Review of Inmates in Disciplinary Segregation. The Institution Discipline Committee will formally review the status of each inmate who spends seven (7) continuous days in disciplinary segregation, and thereafter such cases will be reviewed on the record each week and will be formally reviewed at least every thirty (30) days. The inmate shall appear before the Institution Discipline Committee at such formal reviews unless the inmate refuses to appear without the use of force. (A standardized "Special Housing Review" will be used for all reviews conducted by the Institution Disciplinary Committee; formal and on the record.)

There will be a psychiatric or psychologic interview when Disciplinary Segregation continues beyond thirty (30) days.

The interview and report should address the inmate's adjustment to his surroundings and the threat the inmate poses to himself, staff and other inmates. A similar psychiatric or psychological interview and report will be made at subsequent two (2) month intervals should segregation continue for this extended period. When an individual is released from segregation, the review forms and other pertinent documents should be placed in his central file.

An inmate shall be released from Disciplinary Segregation when he no longer poses a threat to himself, or others or to institutional security and when the Institution Discipline Committee determines that continuation in Disciplinary Segregation is no longer necessary to regulate an inmate's behavior within acceptable limits. The time an inmate spends in Disciplinary Segregation must be proportionate to the offense committed, taking into consideration the inmate's prior conduct, his specific program needs and other relevant factors.

(3) Conditions of Disciplinary Segregation.

- (a) Basic living levels of decency and humane treatment must be maintained, regardless of the purpose for which a man has been segregated. Privileges may be added, for the purpose of reinforcing acceptable behavior, to the living conditions of those whose status is purely involuntary, or whose confinement is long-term. These should not result in excessively time-consuming procedures, or neutralize security or shakedown procedures. Ranges L and M on 9-South have been designated as the segregation unit for the M.C.C. No other cells should be used for this purpose unless ample justification can be shown and documented. On the other hand, these cells should not be used for regular housing unless population pressures require their use. Under these circumstances, all other alternatives must be explored and as a last resort only persons on hold-over status should be housed in this area. Under no circumstances should these rooms be used for pre-trial people unless they are in segregation status or Administrative Detention. Persons in Administrative Detention must be given more privileges than those in segregation status.
- (b) As different levels of living arrangements are effected in L and M range, such as Administrative Detention and Disciplinary Segregation, the differential facilities will be separated physically in ways that materials allowed to one person are not passed to others to whom they are not allowed. For example, there may be occasions when the

lower range may be designated for Administrative Detention only.

(c) A description of basic living levels follows:

- (1) Segregation Conditions: The quarters used for segregation shall be well ventilated, adequately lighted, appropriately heated and maintained in a sanitary condition at all times. All cells will be equipped with beds. The beds may be securely fastened to the floor or wall of the cell according to the desires and needs of each individual institution. Strip cells will not be a part of the Segregation Unit. Any strip cells which will be utilized will be a part of the medical facility and under the supervision and control of the medical staff.
- (2) Cell Occupancy: Except in emergencies, the number of inmates confined to each cell or room shall not exceed the number for which the space was designed. Whenever an emergency arises which indicates that excess occupancy may be temporarily needed, an immediate report shall be made to the head of the institution and his approval obtained.
- (3) Clothing and Bedding: All inmates shall be admitted to segregation dressed in normal institution clothing after a thorough search for contraband but without belt and shall be furnished a mattress and bedding. Cloth or paper slippers may be substituted for shoes at the discretion of the Warden. An inmate shall not be segregated without clothing, mattress, blankets and pillow, except when prescribed by the Medical Officer for medical or psychiatric reasons. If an inmate is so seriously disturbed that he is likely to destroy his clothing or bedding or create a disturbance which would be seriously detrimental to others, the Medical Department shall be notified immediately, and a regimen of treatment and control instituted with the concurrence of the Medical Officer.
- (4) Food: As prescribed in existing regulations, segregated inmates shall be fed the normal institution meals on the standard ration and menu of the day for the institution. Disposable utensils may be used when necessary.
- (5) Personal Hygiene: Segregated inmates shall have the opportunity to maintain an acceptable level of personal hygiene, e.g. toilet tissue, wash basin, tooth brushing, eye glasses, etc. When necessary, for reasons of safety or security, a retrievable kit of toilet articles may be issued. Each segregated inmate should shave and shower at least two (2) times a week, unless these procedures would present an undue

security hazard.

- (6) Exercise: Each segregated inmate shall be permitted no less than two (2) hours exercise each week. Exercise should be provided in two (2), one (1) hour periods, but, if circumstances require, one-half hour periods are acceptable if the two (2) hour minimum is maintained. This provision must be carried out unless compelling security or safety reasons dictate otherwise and these shall be documented.
- (7) Personal Property: Personal property will ordinarily be impounded. Some non-dangerous property may be introduced as warranted by an individual's conduct.
- (8) Reading Material: Ordinarily, it may be provided on a circulating basis.
- (9) Supervision: In addition to the direct supervision afforded by the unit officer, each segregated inmate shall be seen daily by a member of the Medical Department, the Operations Correctional Supervisor and/or a member of the Unit Management Team. These staff members should sign the log monitored on segregation cases.
- (10) Correspondence and Visits: Social correspondence privileges shall be continued in segregation unless there exist compelling reasons to the contrary. Mail must be picked up by the unit officer daily. Every effort will be made to notify approved social visitors of any necessary restriction on ordinary visiting procedures so that they may be spared disappointment and unnecessary inconvenience. If ample time for correspondence exists, the burden of this notification may be placed on the inmate. In respect to legal, religious, and PMB matters, the relevant policy statements should be followed.

c. Records.

- (1) A permanent log will be maintained in the segregation unit. All admissions to this unit will be recorded indicating date, reason for admission, and the authorizing official. All releases from this unit will be similarly recorded, including appearances before the Institution Discipline Committee. Officials required to visit the unit will sign this log, giving time and date of visit. Unusual activity or behavior of individual inmates will be recorded in the log with a follow-up memorandum through the head of the institution for the inmate's file. This will include any misbehavior which should be recorded and reported to the Institution Discipline Committee.

A Special Housing Unit Record sheet described below will be used by all units housing inmates in Administrative Detention. Staff who visit persons in Administrative Detention should sign the back of the form giving the time and date of the visit. Appearances before the Unit Team for formal reviews should also be recorded on the back of the form. On the record reviews must also be noted. Maintenance of a log in addition to this requirement is optional.

- (2) A Special Housing Unit Record Sheet (BP-IS-111) will also be maintained in accordance with the following instructions, and sent to the institution's central file.

- (a) The Key at the bottom of the form is self-explanatory.
- (b) The basic information at the top of the form, with the exception of the date and time of release, will be completed by the Officer in Charge/Unit Officer at time of admittance.
- (c) The form provides space for a period of up to seven (7) days. The date column will be recorded daily, the shift line will be completed commencing so as to coincide with the date and time the inmate is admitted as reflected at the top of the form.
- (d) The Officer in Charge/Unit Officer will sign the form in the space provided on line with the shift as indicated. Initials of the officer are not acceptable.
- (e) The Physician's Assistant will indicate by his signature in the proper space when an inmate received medication, is examined by a Medical Officer or Physician's Assistant, or requested to see a member of the medical staff. If no medication is received or request made during a shift, the officer may so indicate by recording "NO (N)" in the column.
- (f) The form is designed for a seven (7) day period. If confinement to segregation continues beyond a seven (7) day period, a new form will be prepared and the completed form forwarded to central file. Date and time of release will be recorded on the final form.
- (g) In addition to entries required on the back of the form for persons in Administrative Detention, comments may be noted on the reverse of the form. In each case, these must be dated and include the signature and title of the person making the comment.

This space can be used for any appropriate comment provided it is signed and dated.

d. Forms.

- (1) Notice of Institution Discipline Committee Hearing (BP-IS-114), Locally Reproduced,
- (2) Inmate Rights at Institution Discipline Committee Hearing (BP-IS-113), Locally Reproduced,
- (3) Special Housing Record Sheet (BP-IS-111), Locally Reproduced. See Policy Statement 20,001.1B, Note: Title change must be entered manually on existing stock of forms. New forms will include these changes.
- (4) Incident Report (BP-IS-83A), secured through regular FPI procurement sources, Note: See Policy Statement 7400.5D, page 6 for change to item 254, and addition of item 257 which must be entered manually on existing stock of forms. New forms will include these changes.
- (5) Institution Discipline Committee Report (BP-IS-115), Locally Reproduced, and
- (6) Special Housing Review Forms (BP-IS-116), Locally Reproduced.

12. DISCIPLINARY PROCEDURES FOR FEDERAL COMMUNITY TREATMENT CENTERS. The following exceptions to the general disciplinary procedures enumerated in this Policy Statement for Bureau of Prison Institutions are applicable solely to Federal Community Treatment Centers. All other procedures of this Policy Statement not affected below are applicable to Community Treatment Centers.

- a. Institution Discipline Committee: Each Federal Community Treatment Center shall have a single Institution Discipline Committee composed of at least one staff member appointed by the Director of the Center. No member of the Institution Discipline Committee may be the reporting or investigating officer or have played any significant part in having the charge referred to the Institution Discipline Committee. Federal Community Treatment Centers need not establish unit or team discipline committees with minor disposition authority but may have only one discipline committee--the Institution Discipline Committee.
- b. Witnesses Requested at Institution Discipline Committee: An inmate appearing before the Institution Discipline Committee shall be permitted to call witnesses from outside the Community Treatment Center who are willing to appear before the Institution Discipline Committee at their own expense and whose presence at the hearing would not pose a serious threat to the security of the Center. Witnesses whose testimony would be repetitious or irrelevant to the charges or disposition need

not be called. Where a request for an outside witness has been refused by the Institution Discipline Committee the reasons for refusing such requested witness shall be well documented and written statements from such requested witnesses shall be liberally accepted.

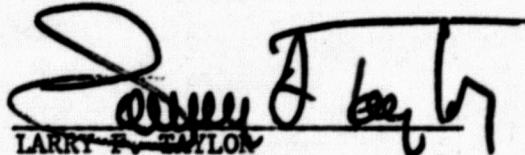
- c. Appeals of Disciplinary Actions: Appeal of any disciplinary actions within a Federal Community Treatment Center may be made to the Director of the Center any time within 30 days from the date the disciplinary action was imposed. This appeal and any subsequent appeal to the Regional Director or Assistant Director/General Counsel shall be filed pursuant to the provisions of Policy Statement 2001.6A, Administrative Remedy of Complaints Initiated by Offenders in Bureau of Prisons Facilities.
- d. Offenders Programmed in the Center Pursuant to Public Law 91-492 (Probationers, Parolees, or Mandatory Releasees): Reports of misconduct by offenders programmed in the Center pursuant to Public Law 91-492 shall be forwarded to the appropriate agency (Probation Office or Parole Board) for disposition that agency deems appropriate and shall not be the subject of disciplinary action within the Center. Immediate notification should be made where the misconduct is serious and arrangements for removal from the center may be necessary for the protection of life or property.
- e. Escapes from Community Treatment Centers: Should an offender escape, the facility will immediately notify the FBI, giving specific information about the escape and listing the time and circumstances of the last contact. All file material will be made available to the local FBI and the U.S. Marshal in the course of their investigation. When an individual is not where he is scheduled to be, and when the facility staff has exhausted its resources to contact him, he will be declared by the facility staff to be in escape status. In all cases, the appropriate Community Programs Regional Administrator, M.C.C. Warden and the Correctional Services Regional Administrator will be notified as soon as possible during normal working hours.

In all escapes, the Standard Escape Report will be completed. Further action will be taken following the guidelines under Section 7a. above for handling incident reports. Total resolution of the incident must be effected, even to the point of holding the hearing(s) in absentia. In accordance with these instructions, the Escape Report will be treated as an Incident Report.
- f. Use of Part-Time Employees or Federal Family Employees in Disciplinary Process: With the exception of sitting as a member of the Institution Discipline Committee, part-time employees or Federal Family Employees (U.S. Probation Officers or U.S. Marshals, etc.) may be used in any stage of the disciplinary process where there is an insufficient number of full-

A 2677

Page 25
NY 7400.5D
4-5-76

time staff available.


LARRY F. TAYLOR
Warden

Attachments: Notice of Institution Discipline Committee Hearing
Inmate Rights at Institution Discipline Committee Hearings
Special Housing Unit Record Sheet
Institution Discipline Committee Report
Special Housing Review

A 2678

NOTICE OF INSTITUTION DISCIPLINE COMMITTEE HEARING

DATE: _____

TO: _____ Reg. No.: _____

ALLEGED VIOLATION: _____

DATE OF OFFENSE: _____ Code No.: _____

You are being referred to the Institution Discipline Committee for the above charge.

The hearing will be held on: _____, at _____ A.M.,
at the following location: _____ P.M.,

You are entitled to have a full-time staff member represent you at the hearing. Please indicate below whether you desire to have a staff representative, and if so, his or her name.

I (do) _____ (do not) _____ wish to have a staff representative.

If so the staff representative's name is: _____

You will also have the right to call witnesses at the hearing and to present documentary evidence in your behalf; provided, calling your witnesses will not jeopardize institutional safety. Names of witnesses you wish to call should be listed below. Briefly state what each proposed witness would be able to testify to.

NAME: _____, Can Testify to: _____

NAME: _____, Can Testify to: _____

NAME: _____, Can Testify to: _____

The Chairman of the Institution Discipline Committee will call those witnesses (Staff or Inmate) who are reasonably available, and who are determined by him to be necessary for an appreciation of the circumstances surrounding the charge. Repetitive witnesses need not be called. Unavailable witnesses may be asked to submit written statements.

If additional space is needed, use the reverse side of this form. Date, sign, and return this form to the Chairman of the Institution Discipline Committee.

DATE: _____ SIGNATURE: _____

BP-IS-114
9/74

INMATE RIGHTS AT INSTITUTION DISCIPLINE COMMITTEE HEARING

As an inmate charged with a violation of institution rules or regulations referred to the Institution Discipline Committee for disposition, you have the following rights:

1. The right to have a written copy of the charge(s) against you at least 24 hours prior to appearing before the Institution Discipline Committee;
2. The right to have a full-time member of the staff who is reasonably available to represent you before the Institution Discipline Committee;
3. The right to call witnesses and present documentary evidence in your behalf, provided institutional safety would not be jeopardized;
4. The right to be present throughout the Institution Discipline Committee hearing except during Committee deliberations and except where institutional safety would be jeopardized;
5. The right to be advised of the Institution Discipline Committee's decision, the facts supporting the Committee's decision, except where institutional safety would be jeopardized, and the Committee's disposition in writing; and,
6. The right to appeal the decision of the Institution Discipline Committee by means of the Administrative Remedy Procedure to the Chief Executive Officer (Warden) within 30 days of notice of the Committee's decision and disposition.

I hereby acknowledge that I have been advised of the above rights afforded me at an Institution Discipline Committee hearing.

Signed: _____

(Typed or Printed Name)

(Register No.)

(Date)

M.C.C. - New York

U.S. Department of Justice
Bureau of Prisons

A 2680

Attachment B

7400. 5D

4-5-76

INMATE RIGHTS AT INSTITUTION DISCIPLINE COMMITTEE HEARING

(continued)

(Where an inmate has been advised of his rights afforded at an Institution Discipline Committee hearing, but refuses to sign the acknowledgement, the following should be completed.)

I have personally advised _____
(inmate's name and register no.)
of the above rights afforded him at an Institution Discipline Committee hearing; however, he has refused to sign the acknowledgment.

Signed: _____

(Employee's typed name)

(Date)

A 2681

Attachment C
7400.50
4-5-76

Metropolitan Correctional Center
SPECIAL HOUSING UNIT RECORD SHEET

TEAM/CASEWORKER: _____ REGULAR QUARTERS: _____

INMATE NAME: _____ REG. NO: _____ CELL: _____
VIOLATION: _____ DATE: _____ TIME: _____
OR REASON: _____ REC'D: _____ REC'D: _____
ADMITTANCE: _____ DATE: _____ DATE: _____
AUTHORIZED: _____ REL: _____ REL: _____
PERTINENT INFORMATION: _____

DATE	SH FT	MEALS			SH	EX	MEDICAL PA SIGN	COMMENTS-USE REVERSE SIDE IF REQUIRED	OIC SIGNATURE
		B	L	S					
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								
	MORN								
	DAY								
	EVE								

BY: Pertinent Info: i.e., Epilepsy; Diabetic; Suicidal; Assaultive; etc.
Meals SH: Shower - Yes (Y); No (N); Refused (R)
EX: Exercise: Enter Actual Time Period and Inside or Outside (i.e.,
8:30/10:00 IN) (2:00/2:30 OUT)
Medical: PA will sign the seg log each shift and the record sheet each time
the inmate is seen by him.
Comments: i.e., Conduct; Attitude, etc. Additional comments documented on
reverse side must include date, signature and title.
OIC Signature: OIC must sign all record sheets each shift. (OIC - Unit Officer)

Bureau of Prisons
INSTITUTION DISCIPLINE COMMITTEE REPORT

A 2682

Attachment 2, 7400.50
Date: _____
Time: _____

NAME OF INMATE: _____

REG. NO.: _____

The inmate has been advised of his rights before this Committee. ☐ A copy of the advisement of rights form is attached.

This hearing is held to consider the Incident Report(s) dated: _____

The following persons appeared before the Committee: _____

Summary of statements made and information presented to the Committee:

Inmate admits the charge(s): ☐ Yes ☒ No.

The Committee finds that:

☐ The act was committed as charged

☐ The following act was committed: _____

☐ No prohibited act was committed.
(If this is the finding, this report and all related reports will be destroyed.)

Action Taken: _____

Reason for Action Taken: _____

☐ The inmate has been advised of the findings and orders of this Committee.

☐ The inmate has been advised of his right to appeal this action within 30 days to the Chief Executive Officer. ☐ A copy of this report has been given to the inmate.

(CHAIRMAN)

(MEMBER)

(MEMBER)

If there is insufficient room for any item, it should be continued on an attached sheet.)

BP-18-115
9/74

SPECIAL HOUSING REVIEW
(M.C.C.)

7400.5D
4-5-76

TO : Central File
FROM : Adjustment Committee and/or Institution Discipline Committee
SUBJECT : _____ Review by: IDC _____ AC _____

(10 or 30 day)

Inmate's Name _____ Reg. No. _____
Has been seen daily by Medical Staff: Yes _____ No _____ Has received prescribed weekly exercise: Yes _____ No _____

Admitted to Administrative Detention by: _____ Date: _____ Time: _____

Admitted to Disciplinary Segregation by: _____ Date: _____

Charge: _____ Date: _____ Incident Investigated by: _____

Incident Report Prepared by: _____ Date: _____ Incident Investigated by: _____

Date Inmate Appeared Before Adjustment Committee: _____ Date: _____

Charge & Disposition: _____

Does proper documentation and justification appear in the Central File (Incident Report, IDC Report, copies of 10 and 30 day review form)? Yes _____ No _____ If no, why not: _____

Subject case was reviewed on the above date by the Adjustment Committee/Institution Discipline Committee.

ACTION

- _____ Pending a hearing for violation of institution rules or regulations;
- _____ Pending an investigation of a possible violation of an institution rule, but where charges have yet to be lodged;
- _____ Pending investigation or trial for crimes committed in the institution;
- _____ An inmate requests or staff determines admission to the Administrative Detention area for his own protection;
- _____ An inmate pending transfer or in holdover status awaiting transfer;
- _____ Pending classification;
- _____ Control threat to safety and security of the institution. Remain in disciplinary segregation.

REMARKS:

Chairman _____

Member _____

Member _____

BP-IS-116
6/75

A
2683

DOL-1975-06

SPECIAL HOUSING REVIEW
(M.C.C.)

7400.5D
4-5-76

TO : Central File
FROM : Adjustment Committee and/or Institution Discipline Committee
SUBJECT : _____ Review by: IDC _____ AC _____
(10 or 30 Day)

Inmate's Name _____ Reg. No. _____
Has been seen daily by Medical Staff: Yes _____ No _____ Has received prescribed weekly exercise: Yes _____ No _____
Admitted to Administrative Detention by: _____ Date: _____ Time: _____
Admitted to Disciplinary Segregation by: _____ Date: _____
Charge: _____
Incident Report Prepared by: _____ Date: _____ Incident Investigated by: _____
Date Inmate Appeared Before Adjustment Committee: _____ Date: _____
Charge & Disposition: _____
Does proper documentation and justification appear in the Central File (Incident Report, IDC Report, copies of 10 and 30 day review form)? Yes _____ No _____ If no, why not: _____
Subject case was reviewed on the above date by the Adjustment Committee/Institution Discipline Committee.

ACTION

- _____ Pending a hearing for violation of institution rules or regulations;
- _____ Pending an investigation of a possible violation of an institution rule, but where charges have yet to be lodged;
- _____ Pending investigation or trial for crimes committed in the institution;
- _____ An inmate requests or staff determines admission to the Administrative Detention area for his own protection;
- _____ An inmate pending transfer or in holdover status awaiting transfer;
- _____ Pending classification;
- _____ Control threat to safety and security of the institution. Remain in disciplinary segregation.

REMARKS:

Chairman

Member

Member

BP-IS-116
6/75

A
2684

Exh XXII -3

A 2685

5/13/76

BUS SCHEDULE

Lewisburg

M.C.C., New York

week	Tues	LW - PET	Mon	NY - LEW
	Wed	PET - ATL	Tues	LEW - NY
	Thur	ATL - PET	Wed	NY - DAN - NY
	Fri	PET - LEW		
week	Wed	LEW - PET	Mon	NY - LEW
	Thur	PET - NY	Tues	LEW - NY
	Fri	NY - LEW	Wed	NY - DAN - NY
week	Tues	LEW - PET	Mon	NY - LEW
	Wed	PET - ATL	Tues	LEW - NY
	Thur	ATL - PET	Wed	NY - DAN - NY
	Fri	PET - LEW		
week	Tues	LEW - MILAN	Mon	NY - LEW
	Wed	MILAN - TH	Tues	LEW - NY
	Thur	TH - D.C.	Wed	NY - PET
	Fri	D.C. - LEW	Thur	PET - NY

PET - Federal Correctional Institution, Petersburg, Virginia
 ATL - United States Penitentiary, Atlanta, Georgia
 LEW - United States Penitentiary, Lewisburg, Pennsylvania
 NY - Metropolitan Correctional Center, New York, New York
 LAN - Federal Correctional Institution, Milan, Michigan
 TH - United States Penitentiary, Terre Haute, Indiana
 DAN - Federal Correctional Institution, Danbury, Connecticut
 D.C. - Washington, D.C.

CNO10

U.S. DEPARTMENT OF JUSTICE
BUREAU OF PRISONS

DAILY POPULATION LOG - COMMITMENTS

INSTITUTION: 158-NEW YORK MCC (M)

DATE OF COMMITMENT: 09-24-75

REG NO	NAME	HOW COMMITTED	CODE	OFFENSE, SENTENCE, ETC.	TIME	TC
26035-145	GARDNER MICHAEL	S/NY	165	WHC FR DANBURY	1400	010
82111-158	THOMPSON ROBERT	HO	165	ENRT LEWISBURG	1400	010
79813-158	TAYLOR DAVID	S/NY	166	VIOL PROBATION	1400	010
00371-158	PALUMBO WILLIAM	E/NY	166	FORGERY	1400	010
82163-158	NACHAJSKI ROBERT J	E/NY	165	RTD FR D/CONN.	1400	010
00559-158	VALENZUELA SELIN	S/NY	165	NARC LAWS 8 YRS	1400	010
00560-158	LANDRI ROBERT	S/NY	166	INCOME TAX EVASION	1400	010
00561-158	KATZ LEANIRO S	SK	166	NARC LAWS	0100	010
00562-158	MARTIN KEVIN G	SK	166	THEFT, FORGERY CHECKS	0100	010
74754-158	PAPA VINCENT	E/NY	165	WHC FR ATLANTA	1400	010
00563-158	JARAMILLO EDWIN	SK	166	NARC VIOL	0100	010

Exh XXII - 4

A 2686

Exh XXII - 4

A 2687

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

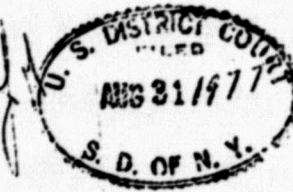
UNITED STATES OF AMERICA, ex rel.
LOUIS WOLFISH, et al.,

Petitioners,

-against-

EDWARD LEVI, et al.,

Respondents.



NOTICE OF MOTION

75 Civ. 6000

S I R S :

PLEASE TAKE NOTICE that, pursuant to the annexed affidavit of Phylis Skloot Bamberger, the undersigned will move this Court for an order re-opening the hearing in this case for the limited purpose of filing a stipulation or taking testimony on the use of the pass system at MCC.

Yours, etc.,

WILLIAM E. HELLERSTEIN, ESQ.,
THE LEGAL AID SOCIETY
Attorney for Petitioners

By

Phylis Skloot Bamberger
PHYLIS SKLOOT BAMBERGER
FEDERAL DEFENDER SERVICES UNIT
509 United States Courthouse
Foley Square
New York, New York 10007
(212) 732-2971

New York, New York
August 29, 1977

To: The Honorable Raymond F. Burghardt
Clerk
United States District Court
Southern District of New York

The Honorable Robert B. Fiske, Jr.
United States Attorney
Southern District of New York
One St. Andrew's Plaza
New York, New York 10007

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA ex rel.
LOUIS WOLFISH, et al.,

Petitioners,

-against-

EDWARD H. LEVI, et al.,

Respondents.

AFFIDAVIT

75 Civ. 6000

STATE OF NEW YORK }
COUNTY OF NEW YORK } ss.:

PHYLIS SKLOOT BAMBERGER, being duly sworn deposes and says:

I am Attorney-in-Charge of The Legal Aid Society, Federal Defender Services Appeals Unit, which is attorney for the petitioners herein. I make this affidavit in support of a motion to reopen the hearing for the limited purpose of filing a stipulation or taking testimony on the use at MCC of a pass system which permits inmates to move about without correction officer escort.

It has been the position of the petitioners that under the applicable principle of "least restrictive alternative," the respondents can structure and restrict the movement at the MCC only as is needed to insure the security of the institution. Petitioners have asserted that the requirement that inmates remain at all times on their unit floors with limited exceptions during which they are escorted by a correction officer is excessively confining and not shown to be necessary for the security of the institution and that relief from this confinement can be afforded by use of a pass system.

During the trial of this case respondent Taylor, Warden of MCC, testified that use of a pass system at the institution would not be possible because human errors would be made, because unescorted inmates would fail to go to where they were

supposed to go, because inmates would hide in the "false ceilings, ventilators and blind areas at the prison," and because a pass system would provide the opportunity for escape (Transcript at 1896). Thus, Taylor envisioned a risk to the security of the institution.

Today, I personally observed inmates moving about the institution without a guard escort but with a pass to enable them to go to specific locations out of their living units. I have also recently learned from Legal Aid Society Federal Defender trial attorneys that inmates appear to be moving to counsel visits and the infirmary without guard escorts. From all appearances, respondents' previous testimony that such a system poses a threat to the security of the institution is no longer their present view and consequently, the respondents should be constitutionally required to remove some restriction on movement in the institution, at least by use of a pass system.

WHEREFORE, it is respectfully prayed that the hearing be reopened for the purpose of entering a stipulation or taking evidence on the use of the pass system.

Phylis Skloot Bamberger
 PHYLIS SKLOOT BAMBERGER

Sworn to before me this

2nd day of August 1977.

JONATHAN L. SHOTSMAN
 NOTARY PUBLIC, State of New York
 24
 City of New York County
 Commission Expires March 20, 1979

NOTICE OF ENTRY

The Plaintiff take notice that this is a true copy of a duly entered in the office of the clerk of the within named court on 19

Dated, Yours, etc.,

Attorney for
Office and Post Office Address

To

Attorney(s) for

NOTICE OF SETTLEMENT

Sir:—Please take notice that an order

of which the within is a true copy will be presented for settlement to the Hon.

one of the judges of the within named Court, at

on 19

at M.

Dated, Yours, etc.,

Attorney for
Office and Post Office Address

To

Attorney(s) for

Index No. 75 Civ. 6000 Year 19 77

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA ex rel.
LOUIS WOLFISH, et al.,

Petitioners,

-against-

EDWARD H. LEVI, et al.,

Respondents.

NOTICE OF MOTION
AND
AFFIDAVIT

WILLIAM E. HELLERSTEIN, ESQ.,

Attorney for petitioners

Office at: Post Office Address, Telephone
THE LEGAL AID SOCIETY
FEDERAL DEFENDER SERVICES UNIT
509 United States Courthouse
New York, New York 10007

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

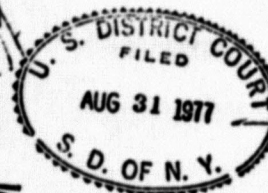
Attorney(s) for

1900-JULIUS BLUMBERG, INC., LAW BLANK PUBLISHERS, N.Y.C. 10013

August 31, 1977

Motion denied. So ordered.

Martin E. Frankel
U.S.D.J.



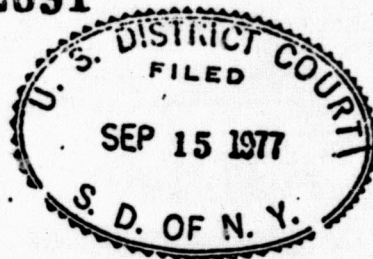
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copy
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

A 2691



-----x
UNITED STATES OF AMERICA ex rel.
LOUIS WOLFISH, et al.,

Petitioners,

-against-

EDWARD LEVI, et al.,

Respondents.
-----x

75 Civ. 6000

OPINION

A P P E A R A N C E S

46335

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Of Counsel

FRANKE, D.J.

In the explosively growing field of law about prison conditions lately developed in the federal courts, this case has one relatively rare feature: it concerns conditions in one of our own, federal places of confinement. The institution

in question is the Metropolitan Correctional Center (MCC) adjoining this courthouse. The action was brought for the MCC's involuntary occupants (both male and female) as a class, embracing the pre-trial detainees for whom the facility was primarily designed, sentenced prisoners either awaiting assignment to a prison facility or assigned here to serve their (usually relatively short) terms, prisoners here on writs to testify or to stand trial, witnesses in protective custody, and persons incarcerated for contempt.¹ Initially brought and conducted largely or wholly by the first-named petitioner, who has since been assigned elsewhere, the case for petitioners was assigned by the court to the Federal Defender Services Unit of the Legal Aid Society, which has proceeded with a quality of resourceful and faultless vigor for which the court records its appreciation.

The petitioners have lodged a long roster of complaints resting upon an array of constitutional and statutory theories. Some issues have been decided upon motions for summary judgment. Thus, upon affidavits recounting undisputed facts, supplemented by the court's physical views of the premises, the transformation of rooms designed for single occupancy into double rooms was held unlawful and enjoined. 428 F. Supp. 333 (Jan. 5, 1977). Along with that determination, the court invalidated (1) a rule allowing petitioners' receipt of literature directly from publishers and from substantially no other source, (2) a practice of seizing property from inmates without giving receipts for it, and

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(3) the opening of inmates' outgoing mail. Id. Those determinations were accompanied by denials of petitioners' complaints regarding inspection of non-legal mail.

At earlier times, upon applications for interlocutory relief, the court issued preliminary injunctions relating to the MCC's telephone service and forbidding any change in visiting hours without notice to the court and petitioners.

Trial of the many questions still to be decided began on February 28 and extended, with some interruptions and truncated days, through March 30, 1977. In addition to the live testimony of inmates, attorneys, correctional personnel (including the Warden and Bureau of Prisons Director), and various experts, the court has considered deposition testimony, voluminous exhibits, and the observations made in two further visits to the MCC. These materials, as compounded and alchemized in post-trial memoranda and affidavits approaching a total of 1,000 pages, generate the findings and conclusions that follow.

In advance of enumerating what the court has decided, and why, it has seemed convenient to begin with a general description of the MCC, and then to sketch preliminarily the principles and restrictions (by no means fixed and certain) governing the involvement of federal judges in the conditions and management of federal prison

facilities. Against these background observations, the facts and dispositions with respect to each subject of controversy will be the subject of our third, and lengthiest, chapter.

I.

The MCC, which opened on August 2, 1975, has an appearance, and results from a course of planning, markedly divergent from the bestial traditions of the American jail.² However well or ill they succeeded, a question we must presently address, those who conceived and designed this institution strove to be humane. They undertook to plan not merely for security and efficiency, but for modest amenities that might rescue from the wretchedness of incarceration some remnants of privacy, self respect, and, even, dignity. The MCC, at least upon first sight, is markedly different from the familiar pattern of barred cages, gray corridors, and clanging gates comprising the standard image.

Two features of the institution have basic significance for its structural character and some of the major complaints lodged by petitioners. First, built in a congested part of a congested City, next to our court building, it is 12 stories tall and has no open ground around it for recreational or other uses. Second, the five floors of the building housing inmates are divided into "functional," or "modular," units reflecting a carefully conceived idea of how best to organize relatively complete programs within subdivisions of the building rather than

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requiring or permitting aggregations of the population for such activities as meals and recreation. The modular unit, as its creator imagined it, would facilitate useful classifications of inmates (e.g., sentenced people, those awaiting trial, dangerous/nondangerous). Each functional unit, being self-contained, would include its own common area, eating place, some recreational facilities, and separate sleeping quarters. Since the total number within the unit would be relatively small, problems of mass traffic would be cut or eliminated. Long periods of lock-in time would become unnecessary. Inmates could circulate within the unit during much of the day, moving freely from the common area to the comparative privacy of a dormitory or the more nearly entire privacy of the single room, which was to be the most prevalent form of sleeping accommodation.

This design was implemented. As the MCC came to be constructed, almost every floor housing inmates has two modular units.³ Each unit has from two to six "clusters" or corridors of rooms or dormitories radiating from a central common area. One of the units contains dormitories, designed by the planners to house ten inmates each. The remaining units contain clusters of rooms, each designed for a single occupant, each originally equipped with its own key to be given to the inmate.⁴ Except for a unit now housing female inmates, each of the rooms has a

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washbasin and toilet.

The common areas are carpeted, and other details are designed to supply some color and interest for the eye. These areas, except for the one in the protective custody unit, are two stories in height, with flights of stairs leading to the rooms or dormitories. Each common area has a color television set, couches, chairs, tables, telephones, mail boxes, exercise apparatus, one or more typewriters, laundry facilities, a water fountain, an education area, and pantries with microwave ovens. There is equipment for closed-circuit educational TV, said at the time of the court's last visit to be verging toward employment. There are staff offices within the units (other than the protective custody unit). Carrying out the functional design, meals are brought on carts to the units, having been pre-cooked and apportioned onto trays, and reheated in the microwave ovens before being served and consumed within the unit.

Avoiding the bar or cage motif, the designers and builders of the MCC arranged narrow, but unbarred, windows facing the outside world, made of a powerful 1/8-inch thick unbreakable polycarbonate plastic, which is colorless and transparent.⁵ The windows are recessed some 14 inches from the building's face and are soundproof.

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Since the units are designed and used to accommodate nearly all the regular aspects of life in confinement, there is little or no reason in respondents' view, or opportunity, for an inmate's departure from the confines of the unit during the days and nights of his or her stay. Many inmates actually stay within their units continuously for long stretches of days or weeks. There is no gymnasium, chapel, commissary, or industrial work place. There is a rooftop recreation area equipped with an abbreviated basketball court, and for paddleball, handball, or open-air spectatorship. The area is surrounded by a wall 20 feet high and topped by a mesh of stainless steel wires welded to a steel gridwork. The inmates, proceeding by units, are allowed about an hour a day in this rooftop area, the desirability of which varies, of course, with weather conditions, and they vary widely in their uses of this opportunity. For the overwhelming majority of inmates, these excursions, the sick call, attorney visits, and court appearances are the only times they leave their units.

Other aspects of the functional-unit plan - touching, inter alia, visiting, religious activities, and library facilities - are best discussed in connection with specific issues to be decided.

General propositions may not decide, but they define some useful perimeters for, concrete issues like those the petitioners have raised. In any case, the court has found it convenient to take some rough bearings before proceeding to the asserted grievances one by one.

We work in a new, but already substantial, field of law elaborated mostly by federal courts responding to demands of state prisoners for rights under the Federal Constitution and federal laws said to be offended by their treatment in state prisons. A host of cases have marked by now an array of rights to minimal decency in jails and prisons - some rights of expression and religious observance; rights to moderately civilized living quarters, food, and medical care; rights to escape punishment either barbaric in character or arbitrarily imposed; rights even to a measure of privacy and personal integrity, among others. Without exhausting them here, the federal charter of prisoners rights has featured prominently the First, Eighth, and Fourteenth Amendments, commonly marshalled against state defendants under the aegis of 42 U.S.C. § 1983.

There is little if any quarrel in the scholarly briefs before us that the federal rights given to state prisoners are not greater than those of

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federal prisoners. A question still surprisingly open is whether a federal court, confronted by demands for fair treatment from "its own" inmates, may not in such a case shoulder greater responsibilities or, to put it less demurely, exercise greater powers. We send them there, after all. Bernard Shaw was probably right for his time when he said:

"Judges spend their lives in consigning their fellow creatures to prison; and when some whisper reaches them that prisons are horribly cruel and destructive places, and that no creature fit to live should be sent there, they only remark calmly that prisons are not meant to be comfortable; which is no doubt the consideration that reconciled Pontius Pilate to the practice of crucifixion."⁶

But that is no longer the position when state prisoners come to federal court. It may outrun precedent to say prisoners are "wards of the court."⁷ Still, the notion that judges may ignore people after they are confined is no longer valid.⁸ And it may be uniquely unacceptable for federal judges dealing with federal prisoners after all that has happened lately to state prisons in the federal courts. As the point has been put negatively, "where state penal institutions are involved, federal courts have a further reason for deference to the appropriate prison authorities." Procunier v. Martinez, 416 U.S. 396, 405 (1974). It is at least implicit that our duties are less constricted with respect to federal prisoners.

A 2700

Beyond such general propositions, there are pointed and specific reasons justifying closer scrutiny of federal prison conditions by federal judges. Without reaching questions of constitutional law, we find in the statute books a matrix of federal law in which our Bureau of Prisons functions. These statutes extend comprehensive powers of management, control, and supervision over federal prisons and prisoners, see 18 U.S.C. §§ 4001(b), 4042, 4081, and 4082, and the powers are given to administrative officials, not judges. At the same time, by no means uniquely, the powers import duties, see 18 U.S.C. §§ 4042 and 4081, and these obligations (to take care, protect, classify, provide suitable quarters, and instruct) are not misconceived or distorted if we describe them as intended to "benefit" those locked up under federal authority. It is no long step from that to infer that some rights - at least against arbitrary, capricious, or unauthorized treatment - accrue to the prisoners for whose management the statutes were written. Cf. J.I. Case v. Borak, 377 U.S. 426 (1964).

Further grounds for thinking the federal judicial power (and responsibility) broader for federal than for state prisons may be found in the Administrative Procedure Act. When state officials, judicial or other, chafe against federal intrusions, their own provisions for reviewing administrative action offer wide avenues for recapturing

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leadership and control in their own domains.⁹ It was never decreed, after all, that the bare floor of federal constitutional prohibitions must become for the States a ceiling above which humane and creative ordering, even for prisoners, should not be conceived.¹⁰

By a parity of reasoning, the statutory powers of the federal courts to draw lines against arbitrariness, caprice, and irrationality would seem to be available in appropriate cases where actions or practices of the Bureau of Prisons are called into question.¹¹ The subject seems still to be surprisingly open. There is some spare and divergent authority on the applicability of the APA to the Bureau of Prisons. Compare Ramer v. Saxbe, 522 F.2d 695, 697 (D.C. Cir. 1975), with Clardy v. Levi, 545 F.2d 141 (9th Cir. 1976); see also Mercer v. United States Medical Center for Federal Prisoners, 312 F. Supp. 1077, 1079-80 (W.D. Mo. 1970). Some courts have reviewed actions of prison officials under an "arbitrary and capricious" or "abuse of discretion" standard without specifically indicating the derivation of the standard. See, e.g., Marchesani v. McCune, 531 F.2d 459, 462 (10th Cir.), cert. denied, 429 U.S. 846 (1976); Royal v. Clark, 447 F.2d 501, 502 (5th Cir. 1971)." Without presuming to synthesize definitively the wisps of uncertain doctrine, and without

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considering "applicability" as a universal concept (since the APA may, of course, apply in some respects and not in others), but having firmly in mind the basic premise that "judicial review * * * will not be cut off unless there is persuasive reason to believe that such was the purpose of Congress," Abbott Laboratories v. Gardner, 387 U.S. 136, 140 (1967), this court has concluded that at least some actions of the Bureau of Prisons are neither "committed to agency discretion" nor shielded by any "statutes [which] preclude judicial review," 5 U.S.C. §701, so that there is some scope for judicial duty and authority under the APA.

On the latter aspect, little need be said. There simply is no statute precluding judicial review.

The prior criterion - whether the subject is "committed to agency discretion" - is a harder topic. It was customary until lately for the judges to stay strictly away from issues as to prison administration. See Procunier v. Martinez, 416 U.S. 396, 404 (1974). That stance has changed radically in the last decade or so. It remains true that the judges are not to take over the running of the prisons, being notably "ill equipped" as well as unauthorized to do that. *Id.* at 405; and see

A 2703

Meachum v. Fano, 427 U.S. 215, 228-229 (1976). Still, the notion of prison administrators as absolute sovereigns is quite dead. And that is as it should be. There are powerful reasons, after all, why the judges ought to be prepared to give at least some attention to complaints against the conditions of confinement ordered by judges. There is commonly as a practical matter no other forum in which prisoners can be heard. They have no clout with legislators, other elected officials, or anyone in the responsible agency. See Davis Associates v. Sec. of HUD, 498 F.2d 385, 390 (1st Cir. 1974). Despite the traditional reverence we have paid to the expertise of jail keepers, there are, as the present record reveals, many pertinent matters on which their knowledge seems no more profound than that of judges. And experience has taught us now that judicial intervention may be meaningful, effective, and beneficial, without also being unnecessarily intrusive. There are, in sum, at least several factors of consequence rendering it unacceptable to hold across the board that prison officials' actions, policies, and procedures are unreviewably committed to their discretion.¹²

Whatever may come to be the scope of statutory review of actions by prison officials, there are clear grounds of familiar judicial policy favoring that mode over constitutional adjudications. To be sure,

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this is an area, like many others, where conceptions of due process are "not graven in stone." Wolff v. McDonnell, 418 U.S. 539, 572 (1974). Times and circumstances change; "a reasonable accommodation" at some point in constitutional terms may come at some later time to be unreasonable and unacceptable. *Id.* So there is flexibility in any event. But that desired quality, and maximum participation by all those charged with governing, is more readily achieved when sound judicial decisions are possible without resort to the Constitution. Legislative and executive responses - especially on matters like prisons, where the primary authority and concern are indeed for legislative and executive officials, Procunier v. Martinez, *supra*, 416 U.S. at 404-405; see also Meachum v. Fano, *supra*, 427 U.S. at 228-29 - are more easily given, and may be paid more entire deference, when the adjustments and balancing of interests are accomplished in terms less portentous than the Constitution's. Upon premises such as these, this court has undertaken, with respect to each of the several issues, to consider possible non-constitutional grounds as well as (in fact, prior to) the constitutional theories mainly debated in the briefs.

It may be, of course, that the difference

becomes more subtle and refined than is useful. What is "arbitrary," "capricious," "irrational," or "unreasonable," may at once, and indistinguishably, violate constitutional as well as statutory rights.¹³ It may be enough for most purposes, without too much refinement, to accept as a usual test the Government's shortly stated standard of "whether the institution is providing reasonable and decent conditions of confinement * * *."¹⁴ We are commissioned, however, to be explicit and candid, and to conform to the law. The effort has been, therefore, to identify the grounds of decision with a measure of specificity.

Whatever the grounds, whether constitutional or statutory, the case has been approached with three basic principles in view. These bear restatement:

First, deference is owed to the primary authority and expertise of those charged with building and running the prisons. Their judgments, unless made arbitrarily or in conflict with particular rights given by Constitution or statute, are entitled to respect and probable finality. See, e.g., Jones v. North Carolina Prisoners' Labor Union, Inc., ___ U.S. ___, ___ (1977).

Second, it remains nevertheless a powerful principle that a prisoner retains "all the rights of an ordinary citizen except those expressly, or by necessary implication, taken from him by law. While the law does take his liberty

and imposes a duty of servitude and observance of discipline for his regulation and that of other prisoners, it does not deny his right to personal security against unlawful invasions." Coffin v. Reichard, 143 F.2d 443, 445 (6th Cir. 1944). Defining the rights thus retained - and balancing them against problems of security, good order, and the supposed purposes of punishment - is now an accepted, if not uniformly simple, task of the judiciary.

Third, pre-trial detainees, a central group in the petitioner class, are not subject to the substantial powers of prison officials that attend their function of administering punishment. For these detainees, presumed to be innocent and held only to ensure their presence at trial, "any deprivation or restriction of * * * rights beyond those which are necessary for confinement alone, must be justified by a compelling necessity." Detainees of Brooklyn House of Detention v. Malcolm, 520 F.2d 392, 397 (2d Cir. 1975); see also Rhem v. Malcolm, 507 F. 2d 333, 336-37 (2d Cir. 1974).

With these thoughts in view, we proceed to the list of issues and their determination.

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III.

A. MODULAR CONFINEMENT

As described earlier, the MCC is organized into self-contained living units. With the exception of medical services and recreation on the rooftop area, the institution provides all services to the inmates on the living unit.

This "modular unit" is an interesting, well-intended, in some ways beneficial, but in some ways uniquely restrictive and hotly contested mode of confinement. The combination of common areas with radiating clusters of sleeping quarters is at first - and, indeed, steadily - more pleasing to the eye than the traditional corridors of cell blocks or dormitories. On the other hand, the narrow perimeter measurements of the unit as a whole soon become oppressive and close when, as is usually the case, they bound the inmate's world for 23 or 24 hours of the day. There is no room to run or jog or even walk very much. There is no place to go outside the unit - or, at least, no place where it is permissible to go.

In this important respect, the units contrast sharply with more familiar styles of prison architecture. In many other jails, and in many secure prison facilities for sentenced inmates, the people in confinement can move freely over relatively long distances and in relatively

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large spaces. Within the perimeter walls of a Danbury or a Lewisburg, for example, there are hundreds of yards of walking and running distance both in recreational areas and in the corridors or open spaces leading from one to another of the places to which prisoners are expected and permitted to go. Movements of this nature are more or less random within the prescribed time spans, so that there is a modest but noticeable measure of choice and autonomy.

During designated periods, confined people may proceed to work places, dining halls, commissaries, libraries, auditoriums, chapels, school rooms, gymnasiums, playing fields, and other varied destinations. Many of these goings and comings are matters of individual choice. They may be accomplished individually or in random, self-selected groups rather than formations proceeding under guard.

Analyzing the far more straitened confines of the MCC, experts for petitioners condemned it as a harsh and unacceptable form of "maximum security" imprisonment. Respondents' experts, who described as "maximum security" institutions those where inmates are locked into their rooms for 23 hours a day, or where inmates are separated from the guards by bars, considered MCC to be "medium custody." There is no dispute, however, that movement is more restricted at the MCC than in most

A 2709

other federal facilities. Nor are we likely to proceed far in resolving specific issues by conjuring with categories like "maximum" and "medium."

A corollary of the modular living system is the lack of central facilities which inmates may visit to engage in certain activities -- an indoor gymnasium, chapel, law library, general library, or commissary. Also, keeping inmates confined to their living units restricts employment and educational program opportunities. Petitioners request that the court order sweeping changes in the modular living system, including directions to develop central facilities such as those listed.

In studying the several issues thus raised, the court has confronted two that have pervasive significance: the classification of inmates and the length of time people are confined at the MCC. Because their resolution affects a train of other matters, these problems are treated first, followed by others more or less in the order of the briefs.

1. Classification.-- A relatively small number of MCC inmates are free of the most restrictive aspects of modular confinement. These are cadre personnel, often called "redstripers" for an identification symbol they wear, who are free to pass through the doors separating units and move about through the areas within the outside

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perimeter of the Center. For most of the others, however, the situation of substantially total confinement is maintained without any attempted distinctions among the obvious categories into which the inmates fall. This virtually complete failure to classify is defended on the ground that people stay for only brief periods in the MCC and that effective determinations as to their characteristics are thus rendered difficult or impossible. Further, respondents point out, they do not have pre-sentence reports on pre-trial detainees and thus lack a ready source of information on which to base classifications. It may be as difficult as respondents say to classify MCC inmates, though this is not established to the court's satisfaction. The claim of impossibility is totally untenable.

The failure to distinguish among inmates leads to a grossly excessive use of substantially total confinement when some lesser level of restriction would be entirely feasible in a great many cases. Rhem v. Malcolm, 507 F.2d 333, 338 (2d Cir. 1974), aff'g 371 F. Supp. 594 (S.D.N.Y. 1974). While the court has been asked to order sweeping changes in the physical arrangements for modular confinement, it seems imprudent to go so far. Instead, the court will direct a reasonable system of classification, allowing the respondents themselves, in the exercise of their main responsibilities, to proceed

from that to a more acceptable level of confinement for at least a large number of those held in the MCC.

There is no rational excuse for holding elderly, lame, sickly, and otherwise incapacitated persons as tightly as may seem necessary for those more agile and disposed to take measures. Similarly, it is unacceptable to lump without discrimination the embezzler, the bank robber, the mail thief, the narcotics dealer, and every miscellaneous category of alleged criminal, and treat all alike for purposes of security. Not least of all, it is impermissible to treat indistinguishably those who are presumably innocent and awaiting trial, and those who have been convicted and are serving sentences.

The failure to classify, with its consequences of excessive and indiscriminate confinement, is rationally unsupportable, and correctible for that reason alone. It is also, as the cases show, a denial of due process. Building upon the common sense of the situation, as vindicated by ample precedents and nowhere refuted by respondents' submissions, the court will order, first, that respondents must separate pre-trial detainees from sentenced inmates. Barnes v. Gov't of the Virgin Islands, 415 F. Supp. 1218, 1235 (D.V.I. 1976); Holland v. Donelan, Civil Action No. 71-1442 (E.D. La. 1973); Hamilton v. Landrieu, 351 F. Supp. 549, 552 (E.D. La. 1972); Taylor v. Sterrett, 344 F. Supp. 411, 423 (N.D. Tex. 1972), aff'd in part,

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rev'd in part, 499 F.2d 367 (5th Cir. 1974), cert. denied, 420 U.S. 983, reh. denied, 421 U.S. 971 (1975); Brenneman v. Madigan, 343 F. Supp. 128, 138-140 (N.D. Cal. 1972); Hamilton v. Love, 328 F. Supp. 1182, 1191 (E.D. Ark. 1971); Jones v. Wittenberg, 330 F. Supp. 707, 717 (N.D. Ohio 1971), aff'd sub nom. Jones v. Metzger, 456 F.2d 854 (6th Cir. 1972).

Secondly, respondents must separately classify persons who pose physical dangers, who are thought on plausible grounds to pose risks of violence, of escape, or attempts to escape. Rhem v. Malcolm, 371 F. Supp. 594 624-25 (S.D.N.Y.), aff'd, 507 F.2d 333 (2d Cir. 1974). See also Obadele v. McAdory, Civ. No. 72J-103 (N) (S.D. Miss. June 19, 1973); Taylor v. Sterrett, supra, 344 F. Supp. at 423; Brenneman v. Madigan, supra, 343 F. Supp. at 140. This is not only appropriate for the general security of the institution; it is also a means of implementing the rights of the inmates themselves to be protected from physical and mental injury. Gates v. Collier, 501 F.2d 1291, 1308-09 (5th Cir. 1974); Martinez Rodriguez v. Jimenez, 409 F. Supp. 582, 594 (D.P.R. 1976), aff'd, 551 F.2d 877 (1st Cir. 1977); Pugh v. Locke, 406 F. Supp. 318, 329, 333 (M.D. Ala. 1976); Alberti v. Sheriff of Harris County Texas, 406 F. Supp. 649, 669 (S.D. Tex. 1975); Rhem v. Malcolm, supra, 371 F. Supp. at 628-29;

A 2713

Incarcerated Men of Allen County v. Fair, Civil No.

C 72-188 (N.D. Ohio May 19, 1973). As the court said in the last of these cases:

"[A] jail should be a very safe place to be. Prisoners have a right to safety, and failure to provide maximum possible safety because of administrative or mechanical problems cannot be justified." Opinion at 3.

It is unacceptable, for example, to house in dormitories inmates who, on reasonable grounds, must be deemed to present threats to those with whom they live.¹⁵

When the foregoing measures of classification have been instituted, perhaps along with others that respondents are, of course, free to evolve, it should be feasible to relax the existing restrictions on movement within the outer borders (which are highly secure) of the MCC. As has been noted, the court is unable and unwilling to prescribe such further measures of relief at this time. It is to be hoped that respondents will deal creatively and sufficiently with the problem. The issues that may yet arise on this score are postponed for another day.

2. Length of confinement. - It has become clear - it could perhaps have been said a priori - that disputed conditions which may be reasonably tolerable for relatively short terms become progressively more cruel or injurious with the lapse of time. The point is underscored by respondents.

A. 2714

Throughout their arguments - on exercise, recreation, work, and other aspects of MCC life - they emphasize that this is a short-term institution. The argument is significant. And it has significant implications.

Respondents stress that over 50% of the inmates spend less than 30 days in the MCC and 73% less than 60 days. Petitioners stress the still substantial number comprising the other 25%. Since the law values each of us one at a time, this large group of human beings must be reckoned with. So it is important to deal with the evidence that 7.5% are confined in the MCC for 60-90 days; 4.5% for three to four months; 8% for four to six months; and so on, with some inmates, mostly those in protective custody, residing at MCC for as long as 620 days.

The total record on the pertinent subjects demonstrates in the end that the modular arrangements in the MCC will do on the whole for as long as 60 days, but not for longer. This is obviously not a figure computed with calipers. It is, however, a considered judgment based on the totality of the relevant circumstances - such things as the lack of a gymnasium, the lack of outdoor space for walking and running, the absence of a chapel, auditorium, library, separate work places, separate school and classrooms, and other facilities. Appraising these aspects in light

of the testimony and direct observation, the court has been led to conclude that the MCC grows unacceptably cramped and oppressive for most healthy adults after a sojourn of two months. Some, of course, may find it tolerable, even preferable, for longer. Some may suffer - to an extent that may come later to be separately adjudicated - after much shorter times. But the record is preponderantly supportive of the view that the majority of inmates may fairly be subjected to the modular arrangement for 60 days, and that they are likely thereafter to suffer unduly in terms of close, constricting, tense, and frustrating confinement. See Rhem v. Malcolm, 432 F. Supp. 769, 789 (S.D.N.Y. 1977), and cases there cited.

Upon these findings, and having in mind the purpose and stated rationale of the Center and its design, the court concludes that confinement for over 60 days, except for volunteers, should not be tolerated. It is an arbitrary and capricious deviation from the intended and promised use of the facility. It is, if the point need be reached, a denial of due process. There is no reasonable or rational basis for perverting a facility built and justified for brief periods of detention into a long-term prison. The court will, therefore, order that no inmate be kept in the MCC for a period longer than 60 days without his or her consent. As

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soon as it is known that an inmate's stay will exceed 60 days (a prospect that may be obvious from the outset or only become obvious after the passage of some time), that inmate will be informed of his or her right to be transferred to another institution. The right may be waived. Inmates may well prefer the MCC, for its proximity to home or other advantages, despite its defects. See Rhem v. Malcolm, supra, 432 F. Supp. at 789. But the right of transfer, along with the privilege of waiver, must be made known promptly in clear and non-coercive terms.

As will appear further, several of the rulings on other issues rest in part on this premise of relatively short stays in the MCC.

3. Physical Exercise. - There is no indoor gymnasium at the MCC. Physical exercise is available one hour each day on the rooftop area, weather permitting. There are weight machines, exercise bicycles, dip bars, jogging machines, wall pulleys, and medicine balls variously available in the multipurpose areas of the units, though not all of these things are on all units.

Petitioners challenge respondents' assertion that inmates have access to the rooftop daily. They point to the vagaries of weather in New York City. They complain further that the hours assigned

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to each unit frequently coincide with that unit's visiting hours; that the elevator is at times inadequate to transport expeditiously all inmates who wish to use the roof; that the guards do not make enough of an effort to let inmates know when the roof is open. Finally, petitioners point out that on several occasions over the past year, roof usage has been cancelled because of staff shortages.

The court finds, however, that the rooftop area is effectively available to the inmates for one hour per day at almost all times when the weather leaves it usable. The assigned hours are posted, and inmates can arrange to be ready for the assigned periods. Coordination with visits is perfectly feasible; respondents must deal, like everyone, with the limits of the day. On our tours, the roof area was well populated by inmates engaged in a variety of activities.

For those days when the weather does not permit outdoor activity, there is sufficient apparatus on the units to provide exercise. Although the use of this equipment sometimes results in noise that is less than ideal for TV listeners, the annoyance is modest and manageable with minimal effort by the inmates themselves to accommodate each other's needs.

A 2718

A gymnasium, originally part of the MCC design, would be highly desirable. If the court were permitting involuntary sojourns of over 90 days, some facility of that nature might be claimed more effectively to be a requirement enforceable under the Constitution or relevant statutes. But the enforcement of the original purpose to use the MCC only for short terms obviates that possibility. The court concludes that the provisions for physical exercise, in the setting of this decision as a whole, are sufficient.

4. Religious activities and observances. -

The MCC provides religious services for Catholics, Protestants, Jews, Muslims, and Christian Scientists. There is, however, no central chapel. Religious services are led by clergy of the various faiths who make the rounds of the institution. Because the inmates may not leave their units, the clergy must divide their time among them and are unable to provide very extensive services or counseling. Several of them have offices in the MCC, but the inmates are not allowed to leave their units to visit them.

The modular restrictions result in a series of complaints. Jewish inmates, scattered among the units, are often unable to assemble a minyan (ten adult males) required for organized worship. A Muslim inmate complained that he did not participate in services because the Imam was of a sect different from his.

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Protestant and Catholic inmates protested the brevity of the time their clergymen have for them. More broadly, petitioners urge that respondents be required to "provide an adequately equipped chapel at the MCC to which petitioners may go for religious services;" additionally, that inmates should be allowed to visit the clergymen's offices; and that respondents should provide "sufficient numbers of adequate and qualified clergy of the same major faiths as petitioners."

It is obvious that conditions for religious observance at the MCC are not ideal. It would be preferable were there a chapel or other arrangements for inmates of the same faith to congregate. It is to be hoped, moreover, when classification procedures begin and overcrowding is mitigated, that respondents will find it workable to allow assembly of people from the various units for more effective and less cursory services. But whether or not that hope is realized, the court finds no grounds for ordering any of the relief thus far discussed under this heading. Again, for the short terms hereafter to be the rule, the deprivations must be tolerated, as they are in other exigencies both civilian and military, on land and at sea, that occur and recur in our community's modes of existence.

In one respect, however, respondents are shown to be paying less respect than the Constitution commands

to the religious needs of MCC inmates. Muslim observers, like religious Jews, must eschew pork. Jewish inmates obedient to this requirement are given kosher meals since our Circuit ordered support of this dietary restriction. Kanane v. Carlson, 527 F.2d 492 (2d Cir. 1975). The simplest, if not a compulsory, expedient would be to give the same meals to observant Muslims. Instead, respondents have professed to prefer for the latter an arrangement in which pork is deleted from the Muslim meal tray and an extra helping of potatoes or some other vegetable is substituted. The arrangement is a failure. The substitution is wrong in nutritional principle; it fails to supply comparable nourishment. Moreover, even this inadequate arrangement is often neglected, and the observant Muslim is made simply to do without the meat portion or any replacement of any kind.

In this setting, the discrimination between Muslims and Jews, certainly not sought by either group, becomes a wrong to be remedied. Respondents have suggested no reason whatever for allowing it to continue. "In a case where a [practice] has been opposed on grounds as substantial as those presented here, the [agency] has the burden of offering some reasoned explanation." Assoc. Indus. of N.Y.S., Inc. v. United States Dept. of Labor, 487 F.2d 342, 354 (2d Cir. 1973). Respondents make no pretense of meeting this minimal test.

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The court will order, therefore, that observant Muslims be served pork-free meals the same as those given to observant Jews, or allowed in substantially identical fashion to satisfy both their nutritional and their religious entitlements. The court leaves open to this extent the exact mode of compliance. See Kahane v. Carlson, supra, at 496. The critical point of the decree is that the rights be respected and that the existing course of arbitrary and unjustified discrimination be ended.

5. Law Library. - The MCC maintains a law library that functions primarily as a lending library. Only members of the cadre are permitted to visit the library. All other inmates must request books as they need them, giving specific citations. Request slips are placed in envelopes on bulletin boards of each unit. The slips are picked up daily, Monday through Friday, and, within a day or two, the books are sent to the inmates. Three books may be requested at a time; they may be retained for a maximum of three days, but the time limit is often relaxed.

The librarian, a disbarred attorney serving a sentence at the time of our trial, is prohibited from engaging in any research. While this restriction is sometimes disregarded, the librarian never functions effectively as a legal researcher on more than trivial questions.

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A list of library materials and rules is provided to inmates. The list was found, however, to be seriously incomplete. A considerable amount of material actually in the library is not on the list, an omission that is specially hurtful in an arrangement that denies library users access to the shelves and the physical collections. This lack of access is the most serious and decisive respect in which the library facility must be deemed inadequate. Writing for the small and selected readership of the Federal Supplement, the court need not labor the point that effective legal research is impossible where it must be attempted at a remote distance from the volumes, with hopeful stabs at three books at a time spaced over intervals of two days or so. While petitioners also complain of other things, including the insufficiency of the collection, this problem of non-access presents an overriding concern in the circumstances of the case before us.

Drawing a long bow, as always, petitioners demand that there be "a fully equipped up-to-date law library" with access at all times other than hours of lock-in. They contend also that the prohibition against possession of personal typewriters impairs efforts at self-representation; that the institution must provide typewriters for those who need but do not have them;

and that facilities for duplicating papers are not, but should be, available to them.

The basic propositions from which the course of decision may proceed are these:

First, all of the inmates must have "adequate, effective, and meaningful" means of access to the courts. Bounds v. Smith, ___ U.S. ___, ___ (1977).

Second, all of them, if they are so minded, may represent themselves. Faretta v. California, 422 U.S. 806 (1975); Price v. Johnston, 334 U.S. 266, 284-85 (1948); Adams v. U.S. ex rel. McCann, 317 U.S. 269 (1942).

When we apply these principles to the case at hand, it becomes evident that a number far smaller than the total MCC population is meaningfully affected by the library issue. The inmates awaiting trial, the primary class for which the facility was built, are overwhelmingly represented by counsel. For them, the complaints about the library are not significant.

Most prisoners here on writs and most of those serving the characteristically short sentences involved when the MCC is made the place of confinement are not engaged in pro se litigation.

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Finally, the problem for all should be alleviated by the limitation to 60 days of most sojourns at the MCC.

There remains, nevertheless, the small number exercising their right to represent themselves. For these, as has been noted, the existing long-distance, slow-moving, lending library system now in effect must be replaced. Contrary to respondents' contentions, this conclusion has support in precedent as well as in realities familiar to our profession. E.g., Nadeau v. Helgemoe, 423 F. Supp. 1250, 1272-73 (D.N.H. 1976); Kirby v. Blackledge, 530 F.2d 583, 586 (4th Cir. 1976). Inmates entitled to a library facility have a right to physical access to the shelves during a reasonable period of each day.

The implementation of this right should appropriately be left in the first instance for discretionary selection among possible options by the prison authorities. The high-rise urban institution presents both opportunities and difficulties. The MCC is a short walk or ride from some of the most ample law libraries in the country. The building itself, including the existing law library, seems cramped for work space as well as book shelves. If meaningful research is to be done there, the MCC library will need more room and a more ample collection of books than it now possesses. Balancing the several problems of logistics and finance, respondents may conclude that transporting the relative few who genuinely need this service

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makes more sense than contriving the expansions of the MCC library that would be necessary to meet minimum standards.

Other possibilities exist: for example, respondents may wish to consider, in a City filled with eager law students, some arrangement under which inmates might be able (if they choose) to have the assistance of such students, volunteer lawyers, or others rather than enjoying the debatable right to wander freely, but perhaps blindly, among law library stacks. See Stevenson v. Reed, 391 F. Supp. 1375, 1379 (M.D. Miss. 1975), aff'd, 545 F.2d 1207 (5th Cir. 1976).

Within 90 days from the date of the decree herein, respondents will report to the petitioners and the court their chosen mode of compliance with the court's direction that inmates with need therefor be given physical access for reasonable periods to adequate law library facilities. If respondents' determinations are disputed, counsel for petitioners will have 15 days in which to bring on objections and counterproposals for the court's consideration.

If respondents choose to comply by improving the MCC library¹⁷ itself, they must complete and expand its collection.

The open-ended handling of this subject at this stage is meant as an invitation to collaborative and imaginative management by respondents themselves. The court will be receptive in this light to proposed elaborations or modifications within the broad terms of what is held to be compulsory under the law.

There remain questions concerning typing and duplicating needs for legal submissions to the courts. The institution supplies one typewriter for each unit; petitioners say this is not enough and that there must be "an adequate supply of typewriters on the housing floors for use by petitioners in the preparation of legal materials."¹³ The vagueness of the demand reflects the lack of solid foundation for the claim. The provision of more typewriters would be desirable. Perhaps the Bureau will acquire them in some future budget. But there is no ground for ordering more by court decree. Eisenstadt v. Britton, 478 F.2d 855 (5th Cir. 1973); Stubblefield v. Henderson, 475 F.2d 26 (5th Cir. 1973).

On the other hand, respondents' prohibition against inmates' acquisition or possession of their own typewriters is, on this record, arbitrary and capricious. As is true of other restrictions respondents have imposed upon personal possessions, this one is supported by no suggestion of sufficient or persuasive reasons. The Constitution may not confer a right to have a typewriter as an incident to the right of access to the courts. Tarlton v. Henderson, 467 F. 2d 200 (5th Cir. 1972). But it is clear that a typewriter is a valuable implement for this purpose; that typed papers may leap more vividly than handwritten ones to the watery judicial eye; and that a barrier against this kind of support for cherished interests ought to have solid justification in reason and experience. Lacking any such

support, respondents' prohibition against typewriters should and will be enjoined.

Finally, as to duplication of papers, the court finds petitioners' complaint unsupported by the evidence and dismisses this aspect of it.

6. General Library.- The MCC has a central lending library from which inmates may order books which are shown on a list available in each unit. Additionally, racks of paperback books are placed in each unit. The library is stocked primarily from donations. Every four to six weeks, the institution receives as donations from drug store book racks between 1500 and 4000 paperbacks that have been stripped of their covers, and these are divided among the units. Magazines are collected by the Education Coordinator from the Post Office's dead letter office and divided among the units.

Petitioners seek, but the court will not grant, an order requiring a central library to which they may have physical access, as is their position regarding the law library. Since the court enjoined enforcement of respondents' "publishers only" rule, 428 F. Supp. at 340-41, inmates may receive reading matter from friends and relatives. There are magazines and books on each floor although, admittedly, they may not please all tastes. There is television on each unit. Newspapers are available from the commissary. One need not, and the court does not, find the MCC an agreeable

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place for an addicted reader in order to hold, as the court does, that respondents are not failing in their legal duties in this respect.

7. Education. - The educational programs available to the inmates include "GED" (General Educational Development - High School Equivalency Diploma), English as a second language, adult basic education, college courses through the Empire State College programs (including federal grants to cover inmates' tuition payments), and classes in art, dance, creative writing, human sexuality and family dynamics, life skills, world politics, sculpture, and drama. A closed circuit television system has been installed (it is not yet operational) which will allow inmates access to over 100 programs upon request.

Considering that the institution is but two years old, this is not an unimpressive catalogue. To be sure, school catalogues are not the most precisely reliable documents. And there are patent defects, including the fact that most classes are confined to single units, so that offerings are unavailable because of insufficient enrollment when there might be enough students were they drawn from the place as a whole. Once more, the court notes a hope that a rethinking of movement restrictions may lead to amelioration. But whether or not that happens, petitioners' demands for expanded educational programs cannot be granted by the court. The difficulty of organizing a meaningful education

program for a largely transient and extremely diverse population cannot be overestimated. All things considered, respondents are doing not merely an acceptable, but a commendable job in this respect.

8. Jobs.-- Petitioners complain that there are not enough job opportunities available to inmates. There are no work-release programs; some inmates are employed in the institution either for low pay or none at all. The court is asked to order that respondents offer "constructive employment" to all inmates who wish it; that these inmates be paid at the federal minimum wage; that no inmates be required to work more than eight hours per day, five days per week; and that convicted prisoners be allowed to participate in work-release programs.

The court is not persuaded of any ground for interference in this area. Respondents appear to make genuine and earnest efforts to create employment opportunities. Inmates are employed in a variety of clerical and administrative tasks, though there are, of course a limited number of these. Many work at jobs they would not have chosen in the outside world, such as kitchen and sanitation work, but this is to be borne in the nature of the case. The institution has just received authorization for a broom and brush factory, a "first" for a detention facility.

It remains a regrettable fact that jobs are not available for many of the inmates. But this is among those gravest of social ills that courts cannot cure.

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It is not utterly irrelevant that the case has proceeded during a time of severe unemployment all over the land, especially among minority groups disproportionately over-represented in jails and prisons. The MCC is located in a large urban center where there are far too few jobs even for those not in correctional facilities. See, e.g., "New York is Lowest in Youth Employment," New York Times, August 2, 1977, p. 30, col. 1. Respondents appear to be doing what they can. The court may not expect or order more.

9. Commissary.— Among the deprivations of the modular arrangement is the absence of a commissary, like those in many other penal institutions, where inmates may visit and shop for snacks, tobacco, and other things. An order form is distributed to inmates weekly, and orders are filled within the next day or so. Inmates are permitted to spend a total of \$15.00 per week or up to \$50.00 per month. Prices are set to cover the salaries of the commissary staff, and are subject to change without notice. There is no place to list a second choice on the order form; thus, if the inmate orders Brand A and it is out of stock, his order is returned with this advice, there being no means to have shown that Brand B, or even X, would have been preferred to nothing. When the institution is being inventoried, no orders are taken.

Deposits to inmate commissary accounts are made by the institution pursuant to "authorization" forms signed by inmates, allowing the institution to endorse checks

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and money orders made out to inmates, and deposit them in the MCC's bank account. These forms appear, however, to have been executed in many cases at and for institutions other than the MCC. Money orders are credited to an inmate's account within one day; checks are cleared within 30 days. Five days each week, the institution accepts deposits during two specified hours directly at the institution.

Petitioners seek a variety of changes in these commissary arrangements:

- (a) The establishment of a commissary they may visit every other day, or, alternatively, the acceptance of orders daily.
- (b) A place for alternate choices on order forms.
- (c) Cessation of the cashing of checks and money orders in the absence of specific consent to MCC's exercise of this authority.
- (d) Speedier clearance of checks.
- (e) Removal of the \$50.00 limit.
- (f) Sales at "cost."
- (g) Extensions of the hours when deposits may be made in commissary accounts.

The court will grant, at least in part, the first four of these requests.

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The opportunity to visit at a store is among the small material pleasures most sorely missed in the MCC. The testimony reflects this; the court could know it judicially. Notwithstanding this, the court finds no constitutional or other basis upon which it could order the provision of this amenity. On the other hand, the niggardly allowance of orders once weekly, plus the cavalier neglect to allow even second choices on the order form, represents a level of indifference that satisfies legal as well as lay notions of arbitrariness and caprice. The practice respondents defend means that an inmate unlucky enough to arrive the day after commissary orders are taken goes two weeks without the snacks or toiletries or tobacco he would wish to buy. The denial of a place for second choices reflects, in a petty but galling fashion, the kind of indifference the Bureau of Prisons has striven with much success to avoid in other respects. See Wright v. McMann, 387 F.2d 519, 525-26 (2d Cir. 1967). The quality of this stance is reflected in a Post-Trial Memorandum, where respondents say: (218fn*):

"Petitioners' suggestion that the ordering procedures provide for alternate selections is a good one, and respondents will endeavor to implement it at the MCC. There is, however, no basis for the contention that such an administrative reform is constitutionally required."

There is no suggestion in this observation, or elsewhere, why

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respondents propose only to "endeavor," with no clear confidence of success, to meet this minimum dictate of reasoned decency. Nor is there any sound reason why the MCC, unlike jails and prisons across the land, should allow orders only once weekly. It takes less than the Constitution to require correction of this condition.

To remedy these aspects in which the MCC's practices must be condemned as arbitrary and capricious, the court will require that commissary orders be taken at least every other day and that the forms make provision for second choices. At least one court has been more liberal, requiring arrangements for daily commissary orders. Miller v. Carson, No. 74-382-Civ.-J-S (M.D. Fla., Jan. 31, 1975). It was thought that a Florida jail could and should manage that. Perhaps respondents will strive successfully toward the same goal. Perhaps if the Bureau of Prisons comes to be widely outdone in this and other respects, there will be no reasonable ground for sustaining the continued lag. For the time being, the provision now made seems suitably conservative and sufficient. As for the second choices, the enforcement of respondents' favorable inclination accords with a weighty judgment closer to home. Giampetruzzi v. Malcolm, 406 F.Supp. 836, 846 (S.D.N.Y. 1975) (Lasker, J.). The court will so order.

The practice of endorsing inmates' checks and money orders without their specific consent is not defensible, and must be ended. There was testimony by a number of petitioners

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that remittances of this nature were on many occasions expected by them but never credited to their accounts. There is not sufficient evidence of specific conversion or misappropriation, but the Center's practice invites and supports hostile suspicion. It is arbitrary and capricious and, if there is need to add it, a taking of property without due process of law.

A related item of seeming neglect, neither explained in the record nor seemingly explicable, is the 30-day delay before a check is credited to an inmate's account. Whatever banking and postal troubles we may lately have seen, this is not allowable on any reasonable basis. The MCC will credit checks in not more than 15 days unless there is good cause, duly communicated, for doing otherwise.

The remaining complaints concerning the commissary must be rejected. The limit of \$50.00 monthly is dubious. It will bear reexamination as prices continue to rise. But it is not beyond respondents' powers, especially as mitigated today by the determination that receipt of packages be allowed. (See infra.)

There is no legal basis for demanding commissary sales at cost.

Finally, it is plausible to demand that there be an expansion of the hours for deposits in commissary accounts. But the record contains no concrete evidence of hardship on this score. As problems arise, if they do, respondents should have primary authority to consider their extent and possible solutions.

B. OVERCROWDING

In the architectural and logistical plans as they were finally fixed, the MCC was designed to house a maximum of 449 inmates. That "rated capacity" has been routinely and substantially exceeded throughout the short history of the jail. Even before it opened, rooms designed for single occupancy were being fitted with double bunks to hold two inmates - an arrangement since discontinued by order of this court, 428 F. Supp. 333, 335-40 (1977). There remain problems of overcrowding postponed to the plenary trial. Petitioners complain against two conditions, the existence of which respondents do not dispute: (1) the housing of 20 inmates in dormitories designed for 10, and (2) the use of common areas for sleeping men on cots, or even on the floors. The court finds that petitioners should prevail on both of these contentions.

Preliminarily, there is much to be said, resting upon broad principle and specific precedent, for the proposition that confinement in numbers that exceed rated capacity is in itself impermissible. Detainees of the Brooklyn House of Detention for Men v. Malcolm, 520 F.2d 392, 394 (2d Cir. 1975); Ambrose v. Malcolm, 414 F. Supp. 485, 493-494 (S.D.N.Y. 1976); Taylor v. Sterrett, 344 F. Supp. 411, 423 (W.D. Tex. 1972), aff'd in part, rev'd in part, 499 F.2d 367 (5th Cir. 1974), cert. denied, 420 U.S. 983, reh. denied, 421 U.S. 971 (1975); Hamilton v. Schiro, 338 F. Supp. 1016 (E.D. La. 1970), order entered sub nom. Hamilton v. Landrieu,

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351 F. Supp. 549, 551 (E.D. La. 1972); Miller v. Carson, 401 F. Supp. 835, 899 (M.D. Fla. 1975); Pugh v. Locke, 406 F. Supp. 318, 322 (M.D. Ala. 1976), citing order entered jointly in Pugh and in McCray v. Sullivan, 399 F. Supp. 271 (S.D. Ala. 1975). When the respondents, or others with roles of authority in the responsible agencies, designed the MCC, they knew and intended, in the apposite word of defendant Director Carlson, that the facilities to be built would not be "plush." So it is significant that they planned, and proclaimed the plan, that the MCC would house 449 inmates, not the much larger numbers they quickly contrived to bundle into the building. See Hanly v. Mitchell, 460 F.2d 640, 643 (2d Cir. 1972), cert denied sub nom. Hanly v. Kleindienst, 409 U.S. 990 (1972); Hanly v. Kleindienst, 471 F.2d 823, 826 (2d Cir. 1972), cert denied, 417 U.S. 903 (1974). It is not necessary to hold defendants' own plans and ratings against them with the force of invariable regulations. Cf. Accardi v. Shaughnessy, 347 U.S. 260 (1954); Service v. Dulles, 354 U.S. 363 (1957); U.S. ex rel Donham v. Resor, 436 F.2d 751 (2d Cir. 1971); Smith v. Resor, 406 F.2d 141 (2d Cir. 1969); United States v. Heffner, 420 F.2d 809 (4th Cir. 1969). It may be that deviations from rated capacities will in a proper case be justified. On the other hand, it will not do to argue, as respondents do, that their ratings may never be held binding lest the jailers proceed forthwith to abandon civilized estimates and publish only barbaric plans.¹⁹ On that appraisal of executive probity, we could never have had the

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long line of cases, of which a few are cited just above, holding officials to their own voluntary regulations.

In this court's view, it is enough for this case to say that the rated capacity as given by the prison officials themselves is strong evidence of what the facility and its components should hold. Approaching the two specific problems in that light, the court has confronted (a) living conditions grossly short of minimal decency, and (b) no semblance of justification except the general defense that the facilities of the Bureau of Prisons are in toto insufficient to house all the people consigned to them. That sort of defense has been rejected over and over again in cases involving state prisons. Rhem v. Malcolm, 527 F.2d 1041, 1043-44 (2d Cir. 1975); Detainees of the Brooklyn House of Detention for Men v. Malcolm, 520 F.2d 392, 399 (2d Cir. 1975); Rhem v. Malcolm, 507 F. 2d 333, 341 n.20 (2d Cir. 1974); Gates v. Collier, 501 F.2d 1291, 1319-1320 (5th Cir. 1974); Jackson v. Bishop, 404 F.2d 571, 580 (9th Cir. 1968); Nadeau v. Helgemoe, 423 F. Supp. 1250, 1264 (D.N.H. 1976); Hamilton v. Love, 328 F.Supp. 1182, 1194 (E.D. Ark. 1971); Holt v. Sarver, 309 F. Supp. 362, 385 (E.D. Ark. 1970), aff'd, 442 F.2d 304 (8th Cir. 1971). It has become clear by now that the exuberant rate at which we jail people ²⁹ exacts a price for humane accommodations unless we are to repeal or revise principles of decency lately evolved.

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It is also clear in this light that the defensive posture of respondents must be deemed infirm. We are told that all the Bureau of Prisons facilities together can house approximately 22,500 people whereas the higher total of 29,050 were, as of the time of trial, assigned for federal confinement. The court is driven to a narrowly dispositive answer and a relevant observation or two.

First, and perhaps decisively, the court may adjudicate only upon the case and the facility before it; whether or how other jails or prisons may be stretched to greater capacity is not directly or meaningfully presented. While the court is not free to ignore the total setting, it is neither equipped nor authorized to judge the Bureau of Prisons as a whole. We do not know - we are not told - how varying conditions and facilities elsewhere may be thought to serve lawfully in confining numbers greater than originally intended. This case concerns a particular facility designed largely for pre-trial detainees and for other purposes associated with an urban jail-type structure connected with busy urban courts. Generalities about a whole prison system, lumping everything together and serving up grand and unparticularized totals, cannot play a material part in decision of this concrete case.

Second, the standards the court may enforce are minima; they may not be ignored or avoided on claims of administrative burden or expense.

Third, even a court may know that the numbers now confined in federal prisons are comfortably within the capacities of the Nation to house in conditions of minimum decency. We have produced adequate housing for hundreds of thousands in short days or weeks when the urgencies of warfare required it. The richest country in the world, carrying the message of human rights around the world, is capable of finding decent living quarters for the 6550 excess of prisoners over the 22,500 for whom there are said to be existing facilities. All of us whose jobs have to do with incarcerating people - the lawmakers, the prison officials, and the judges - are in some measure collaborators. But we are all bound to our separate duties under the oath to support the Constitution and the laws. When, as here, a case is properly brought to assail conditions of confinement, it cannot be a sufficient defense that circumstances variously conceded to be "undesirable" or "uncomfortable" or "unsatisfactory" or otherwise regrettable must be held sufficient because the money to improve them has not been appropriated.

Upon the broad premises thus stated, we turn to the specific issues relating to the dormitories and the use of common areas as sleeping quarters.

1. The dormitories. - The dormitories were each designed to house 10 men on single beds. ²¹ They have been

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refitted with double bunks, and are now holding double their intended number. This means there are 20 men in each dormitory, or a total of 120 on the unit rather than the 60 for which the unit was designed. The result is described by respondents as "unsatisfactory" but not unlawful. "Unsatisfactory" is a mild characterization. The situation within each dormitory is one of intolerable crowding, strain, and distortion of facilities, and an obvious potential for the tensions of stretched nerves. Similar consequences permeate the unit as a whole; common facilities designed for 60 men are jammed and rendered miserable when made to serve for 120. The doubling of dormitory occupancy is held, in sum, to descend below the constitutional minimum, both for detainees and for sentenced prisoners, including those in the MCC on writs.

The list of oppressions and discomforts from packing two men into each space meant for one is not short. The double bunks are crampingly close together; single beds similarly spaced would be tolerable, if by no means luxurious. The common furniture within each dormitory has become a clutter - roughly doubling the two tables and eight chairs originally planned - so that there is scarcely room to move about. The common toilet facility is grossly inadequate.²² Privacy is of course, nonexistent in a dormitory, but the wretchedness of forced company is intensified by the added crowding and noise of twice the number meant to be there.²³ The solace

of reading and writing is impaired for those who might use it; reading lights meant for 10 single beds are blocked for those in bottom bunks.

The increase from 60 to 120 spreads discomfort and deprivation throughout the common facilities of the unit. The common area as a whole, which is all the men have for recreation and eating outside the dormitories, has become unacceptably crowded and noisy. A kitchen designed to heat food for 60 people cannot perform adequately for 120. Exercise equipment and common furniture are overtaxed and impaired for everybody. Like the dormitories themselves, the common space is generally more constricted, noisier, and more unpleasant than its designers envisioned.²⁴

The visiting room, subject of other, separate complaints, has a special quality of bedlam in the dormitory unit. Planned for visitors who might be expected by 60 inmates, that room is not sufficient for 120.

This matter of the dormitories is not reducible to arithmetic, but has been the subject of arithmetical debates that are not irrelevant. Petitioners, taking the dormitory by itself, calculate that the inmate has only 43.25 square feet of living space, far below the bare minimum set by correctional experts and some courts.²⁵ But this excludes the common area entirely. Respondents would divide the common area among the 120 people in the unit, arriving at 68 square feet per inmate for his share of dormitory plus common space. But this ignores the modular principle, neglecting the important

fact that other jails (and cases) include relatively accessible gymnasiums, auditoriums, chapels, and outside recreational areas, none of which are divided up and "allotted" to individual inmates for purposes of calculating square feet of living space. Without playing more detailed games with numbers, the court is driven to conclude that petitioners' calculation is closer to the mark and that the "correct" number, whatever it is thought to be, is below an acceptable minimum.

Concluding, as the court does, that doubling the occupancy of the dormitories is to be enjoined, we confront a somewhat nebulous question: where should the line be drawn? It seems improbable, if not impossible, that petitioners would have prevailed on this issue had room been made for an eleventh inmate, and no more, in each dormitory. In granting relief, then, it might be possible to guess our way toward some number well below 20 but possibly above 10. But respondents, having chosen simply to pile 120 men into spaces for 60, have tendered no evidence that could justify any confident determination of some intermediate number. Moreover, the tendency to exceed rated capacity in repeated and varied respects - in double celling, in the dormitories, in the balconies (infra), and elsewhere - counsels against sanctioning any departure of this kind. We apply wisdom of respondents themselves - especially in view of the fact that sudden influxes of short-term residents are routinely

to be expected, and allowed for, in the MCC - when we hold the spaces to rated capacities in the absence of some solidly based rationale for doing otherwise.²⁶ The decree will order that the dormitories be used as they were meant to be, for 10 men each. Since this is a court of equity, both sides may appeal to the aspects of conscience and flexibility informing the familiar jurisprudence. An emergency - some powerful showing of necessity and suitability - may justify a relaxation at some future time. For now, however, the law and the evidence compel an order restoring the living conditions respondents planned and represented.

2. Sleeping in corridors and common areas.- With a frequency that respondents (having the detailed facts) have chosen not to identify exactly, but averaging several nights in substantially every week, inmates are assigned to sleep on cots in corridors, on balconies, or in other common areas because there is no room elsewhere to which they may be assigned. Respondents try to avoid this concededly unsatisfactory arrangement to the extent possible. Inmates are moved from the common areas as soon as room space opens for them, in order of length of stay in the open sections. Nevertheless, the practice is so regular and widespread that according to respondents' own evidence, people sleep in common areas for up to five or more days at a stretch. Further indicating the extent of the arrangement, as many as six to nine inmates have been assigned to sleep on a single balcony for one or more nights.

For a place of pre-trial detention, where it was known from the outset that there would be a large transient population, respondents must be found to have acted arbitrarily and capriciously, in violation of their statutory duties, in allowing such a condition to prevail. The inmate assigned to sleep on a balcony or similar open space has, literally, zero square feet of his own living space. His cot is unfolded only at night. His belongings are stored in boxes taken from him in the daytime. The lights burn all night. However many happen to be spilled into the common area for the night, there is one bathroom available for all.

Admittedly distressed by this situation, respondents offer nothing sufficient to justify it. Here, as elsewhere, they tell of an overcrowded prison system. They tell of measures they have taken - placing immigration detainees elsewhere, renting a new Community Treatment Center, and adjusting bus schedules - , then despair of doing anything more. Considering all the marvels of modern transportation, the several other facilities within relatively short distances, and the known character of MCC uses, respondents demonstrate nothing like the compelling necessity that might justify an occasional night, if not whole weeks, on a balcony. The overall growth of prison population cannot be permitted to come as an ugly miracle upon our prison experts, justifying miseries and degeneration in advance of the opening of new and "modern" facilities. Aside from that, the sweeping explanation that things

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are overcrowded everywhere simply bypasses the concrete questions in this concrete case. To elaborate on a thought expressed earlier, "overcrowding" in Springfield, Missouri, or on the open spaces at Eglin Air Force Base, or at the country barracks of Allenwood, or in maximum security prisons (assuming those places are all overcrowded) may mean quite different things, may generate quite different issues, and may allow of different (perhaps better) justifications than anything even suggested here. What we have in this case is a newly planned and newly built facility, supposedly constructed with foreseeable needs in view, and dedicated instantly to misuse and wretched living arrangements for those confined in it. Designed primarily for presumptively innocent detainees and others expected to stay for short periods, the MCC had to be known in advance as a place where there would be relatively large influxes and exoduses during short spans of time. Knowing that, respondents have proceeded from the outset to handle fully expected events as if they were astonishments and emergencies. Inmates arriving predictably in somewhat unpredictable numbers overload the place and have no proper area of any kind in which to sleep or live their time of confinement. The balconies and other common areas become in practical effect substantially regular portions of the sleeping accommodations.²⁷

Such a swift perversion of a supposedly planned and newly opened jail cannot be allowed. The failure

to plan for the most obvious needs, resulting in distress for inmates readily acknowledged by respondents to be grievous, must be deemed both (a) a violation of the statutory duty to "provide suitable quarters and provide for the safekeeping, care, and subsistence of all" federal detainees, sentenced inmates, and witnesses in custody, 18 U.S.C. § 4042(2), and (b), more broadly, the kind of arbitrary and capricious action correctible under the Administrative Procedure Act.

The decree to be entered will forbid the use of MCC's common areas as sleeping quarters.

C. VISITING

1. Family and social visits.- When this case began, inmates were allowed three visits per week. Visiting hours were:

2d and 5th floor: 8:30-11:30 a.m., every day
4:30- 7:30 p.m., weekdays
9th floor: 8:30-11:30 a.m., every day
3d, 7th, and 11th floors: 12:30- 3:30 p.m., every day.

Each inmate could have a list of six visitors, family or friends. On January 13, 1976, the respondent Warden gave four days' notice that he was curtailing both the hours and the allowable list of visitors. This remarkably brief notice, to both the affected inmates and the court, during a lawsuit, contrasted notably with the substantially longer notice the Warden had given to the union representing members of the prison staff. Petitioners moved by order to show cause to prevent

the abrupt curtailment. First by temporary restraining order, then by a preliminary injunction, the court granted the requested relief. 406 F. Supp. 1243 (1976).

Petitioners pressed at trial contentions that the visiting arrangements thus preserved pendente lite were inadequate. They presented testimony, supplemented by the court's observations, that delays in processing visitors and visiting room conditions tended to abbreviate severely the time available for actual visiting within the range of seemingly available hours.

The detailed proof of these propositions covered the visiting process from the visitor's arrival to departure. The visitor arriving at the MCC's entrance lobby fills out a form which is given to a guard. The form is checked against the inmate's visiting list, and the inmate's living unit is determined from a locator list. When a number of visitors have been so processed, a guard ushers them through a magnetometer, frisks each visitor with a portable metal detector, and searches female visitors' purses. The visitor's hand is then stamped with a password in an ink visible only under ultraviolet light. The guard calls the inmate's unit and informs a member of the staff that the inmate has a visitor. Visitors are then taken up to the residential floors.

On each floor, between the two modular units, there are two visiting rooms one for each unit, separated by a central guard room. Visitors enter through the guard's room and are ushered into the visiting rooms on either side. The visiting room, the dimensions of which are about 22' x 19', contains one or two couches

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and a number of chairs, often supplemented by chairs the inmates bring in from the common area within their units. The visitors' room has a bathroom adjoining it, but this, through most of the months this case was pending, had been locked and barred from use following a reported instance when an inmate had used it to change clothes and effect an escape.

Visitors are admitted into the respective rooms by the guard at the central desk. After the visitor's arrival, the unit guard locates the inmate, and brings him or her to the visitors' room. Visitors and inmates are observable from the guard's desk through the glass walls of the visitors' room.

There was persuasive testimony that these visiting procedures were so conducted that the processing of a visitor from lobby to visiting room could consume from 35 minutes to two hours, depending on the number of visitors at a given time. There were seemingly well-founded complaints that visiting rooms became overcrowded, hot, and noisy. The range of visiting hours, compressed by the processing routine, contributed to the crowding, noise, and general discomfort, including frequent occasions when there were not enough seats for those in the room. Overcrowding led the guards frequently to terminate visits after stays of less than an hour, and well before the end of the ostensible visiting period. The locked bathroom made it necessary for a visitor needing such facilities to sacrifice the time for a round trip to and from the lobby for that purpose.

Respondents proceeded through some remarkable changes of position during the pendency of this case. When he came on to testify as a witness, on March 27, 1977, the Warden, who had found in January, 1976, a need to cut visits sharply and precipitately, announced a liberalization of visiting privileges. Now, we have been assured, another guard will be added in the lobby for expediting the processing of visitors.

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In addition to existing morning hours, all visiting rooms will be open from 12:30 p.m. to 4:00 p.m. and again from 5:30 p.m. to 7:30 p.m., Tuesday through Friday. Additionally, each unit except the dormitory will have 3 1/2 hours of visiting on Saturday and Sunday, alternating mornings and afternoons (i.e., Saturday morning and Sunday afternoon in one week, then Saturday afternoon and Sunday morning the next). The dormitory visiting room will be open both morning and afternoon sessions on weekends.

Having acknowledged that "the visiting program has not been completely problem-free,"²⁸ but having improved the situation substantially, respondents observe that "[the new] system for visiting * * * provides substantial visiting opportunities for all inmates and clearly surpasses constitutional requirements."²⁹ There is an implication that further court intervention would be unjustified.

There are, however, countervailing considerations of some consequence. As will appear further in the course of today's rulings, the respondents have repeatedly found it suitable during the pendency of this case to improve conditions of which petitioners complained. It is plain that most of these improvements have been spurred by the lawsuit and would not have happened otherwise. The visiting situation is in some respects the most striking and unsettling of all these incidents. Within the space of little more than a year, respondents have ricocheted from a decision that visiting should be more restricted to a conclusion that it will be liberalized.

Against this background, the matter is not fairly
erred when we conclude, as the court substantially does, that
respondents should not be ordered to allow more visiting
opportunities and facilities than they have now confirmed. Whether
or not the court would have ordered this much over respondents'
opposition, we now have the clearest kind of demonstration
that this much is feasible and approved by respondents themselves.
The feasibility in the future will be even more certain under
this court's decision, which elsewhere orders population
decreases that will ease the pressure of numbers upon visiting
procedures and facilities. In such circumstances, it seems
wholly equitable to require that respondents not diminish
or impair the stated arrangements at any future time except
upon a showing of good cause for the change. The decree to be
entered will so order. In the circumstances respondents have
themselves created, "the court's order should constitute no
additional burden." Zurak v. Regan, 550 F.2d 86, 95 (2d Cir. 1977).
Specifically, it will be adjudged that respondents
may not decrease visiting hours or allow deterioration in
visiting processes or facilities except after notice to the court
and petitioners of an intention to do so and a showing of good cause
for such action to be made not less than 30 days after the giving
of notice.

One other aspect of the visiting setup requires
action by the court. As has been mentioned, after one was
used in connection with an escape that should have been preventable

in the light of the MCC's elaborate security arrangements, all the visiting room bathrooms were locked, and they stayed locked for a period of some eleven months.

A week before the Warden testified, respondents effected another of their revisions pendente lite. The bathrooms are now accessible to a visitor upon request; a guard, equipped with the key, will open the facility and admit the visitor who has asked for this assistance. The court finds from its observation of all the pertinent circumstances - including the elaborate measures to ensure that only people duly stamped, inspected, and scrutinized pass through the series of locked doors to the outside - that the annoyance and indignity of this bathroom arrangement is not justified.

Here and throughout, the court is keenly cognizant of the fact that prison officials, not judges, are primarily in charge of safety and security in places of confinement. At the same time, the court is not free to blink away the common awareness that zeal for security is among the most common varieties of official excess.³⁰

Here, having observed the locks, the array of closed-circuit TV cameras, the invisible ink, and the long, slow journeys of court and counsel through the security network on our several visits, the court is compelled to conclude that the locked bathroom, accessible only with a guard's help, is an arbitrarily and capriciously excessive item of protection, unjustified by the vague and unexplained history of one improbable escape. The visiting

room bathrooms will be kept open, lockable only by the occupants, during visiting hours.

Having ordered that much, the court is not persuaded that petitioners have shown grounds for sundry other forms of claimed relief in relation to family and social visits. There is no constitutional or statutory basis for ordering the lengthened hours (8:00 a.m. to 10:00 p.m. daily), the unlimited rosters of visitors, the provision of a non-smoking room on each floor, and other amenities petitioners demand, however desirable some or all of these might seem to the court as a matter of policy. We note in this connection that another coincidence in the case has been the placement of soft-drink machines in the visitors' rooms while the court was hearing evidence about the absence of such luxuries. It is to be hoped that such improvements, however prompted, will continue. The court concludes, however, that it is not empowered to order them.

2. Attorneys' visits.- When this action was instituted, procedures and physical arrangements for attorney-client meetings, especially in view of MCC's primary function as a pre-trial detention center, were gravely deficient. A significant number of visits by attorneys were made in the general visiting rooms, under the same conditions of noise, crowding, and nonprivacy as those attending social visits. In addition, the visiting rooms were open for meetings with attorneys after general visiting hours. With advance notice, counsel could have special visits in private rooms.

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There were serious problems of long delays and other inconveniences.

It has become unnecessary, however, to review in detail the situation for which the case was in part brought and to which much evidence was addressed. Again, "[t]he MCC has recognized that there have been problems with the attorney visiting facilities and procedures, and in order to remedy these problems, the institution has developed new facilities." ³¹ These improvements were announced by respondents shortly before the trial began. The new facilities are to include five attorney conference rooms as well as a larger common space furnished with conference tables. This area will be open from 8 a.m. to 3 p.m., seven days a week. A stairway, which attorneys may travel unescorted, will lead directly from the lobby to the conference area. Attorneys will be issued special identification passes, and it will no longer be necessary to give the advance notice formerly required for special visits.

Agreeing that these changes will substantially improve the circumstances of attorney visiting, petitioners request that the court order certain "refinements" in order to protect inmates' Sixth Amendment rights. The court has concluded that petitioners can demonstrate no right at this time to more than respondents have volunteered. It may be that the new arrangements, as yet incomplete and untested, will be found defective in one respect or another.

As respondents' plans are projected, however, they seem amply to accommodate the need for attorney-client access.

Accepting the revised facilities and procedures as sufficient, the court will merely require, as in the earlier determination respecting social visits, that respondents maintain the promised improvements and neither effect nor allow deterioration in attorney-client visiting arrangements without prior notice a showing of good cause.

3. v with codefendants.- Respondents report that an unnamed judge of this court in an unnamed case once "very strenuously objected" to the allowance of meetings between codefendants awaiting trial in the MCC. Seemingly built upon that episode is the current policy of denying such visits in the absence of specific court orders directing them. With all deference to all colleagues in every branch, the court finds the policy indefensible. Except for the unavoidably burdensome incidents of confinement, pre-trial detainees have an elementary right to prepare for trial. The right must include for them, as it does for people on the outside, reasonable freedom to confer with codefendants. Respondents must supply such opportunities in the absence of a specific court order in a specific case forbidding this.

4. Conjugal visits.- With perhaps more proof than even a court might require, petitioners have demonstrated that the deprivation of sexual intimacies is a cause of tension, frustration, and anguish. A distinguished expert, Dr. William Hopper, testified to experience in Mississippi and elsewhere indicating that conjugal visits are salutary and feasible. Other experts and inmate witnesses supported his view. Upon a substantial record of this nature, and invoking decisions protective of sexual privacy and freedom, e.g., Griswold v. Connecticut, 381 U.S. 479 (1965), petitioners claim a constitutional right to conjugal visits. As the case developed, their use of the word "conjugal" became somewhat expansive; they presented as star witnesses a married male prisoner and an unmarried female prisoner, both serving sentences, who seek conjugal visits with each other.

This extension of the position highlights what the court finds to be the essential flaw. The problems of sexual behavior, the extent to which sexual activity must be sacrificed for one perceived public necessity or another, the variety of beliefs about marital, nonmarital, and other kinds of sex, the kinds of deprivation suitably to be allowed as punishment - matters like these are in the realm of mores and public attitudes outside the proper sphere of judges as judges. Whatever one judge or another might think about the difficult policy choices and psychological factors - for example, about the question of strictly "conjugal" visits

in the traditional sense and their possible effects upon unmarried inmates - the decision of such matters must be left in the foreseeable future for elected representatives of the people.

Petitioners acknowledge the conflict of views on this subject among experts and policy-makers. Indeed, on a count of the voices, respondents, notwithstanding a quaint typo, are substantially accurate when they say petitioners' Dr. Hopper "admits that the dormant [sic] view of correctional experts in this country is still opposed * * *."³² The weight of judicial authority is likewise adverse to petitioners. McCray v. Sullivan, 509 F.2d 1332, 1334 (5th Cir. 1975); Sandoval v. James, No. C-72-2213 RFP (N.D. Cal. Oct. 3, 1975); Lyons v. Gilligan, 382 F. Supp. 198 (N.D. Ohio 1974); Wayne County Jail Inmates v. Wayne County Board of Commissioners, Civil Action 173-217 (Wayne Cy. Cir. Ct. 1971). But petitioners are not daunted. They do not acknowledge, they proclaim, the paucity of authority, saying:

"Only one court has had the courage to find that inmates are entitled to conjugal visiting as a matter of constitutional right. Government of the Virgin Islands v. Gereau, 3 Prison L. Rptr. 20 (D.V.I., May 30, 1973)."

With all deference, and without stopping over the meaning of "courage" in such a context, this court rejects the challenge. Whether or not there may be conjugal visits in federal jails or prisons is left for the Congress and the Executive to decide.

D. TELEPHONES

Three subjects are argued with respect to the telephone service provided inmates at the MCC: (1) the extent to which respondents are in compliance with the preliminary injunction issued with respect to telephones earlier in this case, (2) petitioners' claim that the existing services should be expanded, and (3) the validity of Bureau of Prisons Policy Statement 7300.79(2-20-73) which permits the monitoring of inmate telephone calls.

1. The outstanding injunction.- Telephone service at the MCC is currently governed by order of this court entered October 1, 1976. Pursuant to that preliminary injunction, there are 23 pay telephones in the institution on which calls can be made to the 212 area. There are also 23 long-distance telephones on 11 trunk lines which are routed through a switchboard. In order to make a long-distance call, an inmate must pick up one of the receivers and wait for the switchboard operator to answer. The operator will then place the call, provided that the inmate has previously signed up to make it. It is this last requirement, when applied to collect calls, which petitioners charge violates the preliminary injunction.

In proceeding toward a conclusion on this point favoring the respondents, the court recalls that the preliminary injunction came into being when the Telephone Company (without fierce resistance from the MCC) was about to rip

all telephones out of the MCC because of an alleged plague of fraudulent credit-card and third-party calls. The injunctive arrangements were devised to deal with that problem while assuring a decent amount of telephone service for the inmates. The debate then and since has featured complaints by petitioners that there were not enough telephones, that long queues resulted to make calls, and that the situation led frequently to angry encounters and threatened violence among the inmates. It was in that setting that long-distance calls were ordered to be either collect or "pre-paid," the latter meaning payment would be made from the inmate's commissary account. Petitioners accept the system of advance sign-ups for pre-paid calls, but complain that the procedure is a gratuitous obstruction for collect calls. At the same time, not quite consistently, they charge, as has been noted, overtaxed telephone facilities, leading to frustration and conflict.

Much is made in the briefs on this issue concerning what was or was not intended by the preliminary injunction. The court concludes, however, that this is not now a matter of great interest. We are proceeding to a final decree. For that purpose, the court concludes that the sign-up requirement for collect calls is a reasonable and valid measure. It serves petitioners' own stated objective of avoiding disputation over limited telephone facilities.

2. Adequacy of telephone service. Petitioners complain variously about the number of telephones, delays in raising the MCC operator for long-distance calls, and the wall-mounted instruments which afford less privacy than would booths.

No claim for relief has been proved on this score. The evidence of overburdened telephones is neither impressive on its own nor improved by the court's own observations. The telephone service is undoubtedly imperfect. But it is in its setting adequate, if not generous.

3. Monitoring.- Respondents claim the power to "monitor" telephone calls, a position embodied in Bureau of Prisons Policy Statement 7300.79 (2-20-73), which says in relevant part:

"2. Monitoring Calls. Each institution will establish procedures which will enable the monitoring of phone calls, said monitoring to be done to preserve the security and orderly management of the institution; and to insure that institution policy governing the use of phones is being followed."

MCC Policy Statement 7300-79 ¶7 (10-12-76), adopted pursuant to the Bureau of Prisons Statement, adds:

"It should be pointed out, however, that Bureau Policy concerning access to attorneys allows inmates to place calls to their attorneys that are private. In keeping with the spirit and intent of this Policy, the MCC will not under any circumstances monitor attorney-client calls."

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Petitioners assail the asserted authority to monitor, however it may be limited, and now seek an injunction against it. The point, if properly presented, would be substantial.

Respondents answer, however, and the court agrees, that the question has not been timely or suitably raised. It was not in the first amended petition or in any later amendment. The only pertinent testimony in the record is fragmentary and more or less accidental. Respondents had no occasion to develop, by evidence and otherwise, supposed justifications. On the contrary, defendant Warden's contribution, on cross-examination, was to report that no calls have in fact ever been monitored in the MCC. On such a record, the court should not and will not reach

one of the few conceivable issues petitioners managed not to include properly in this case. Cf. Browning Debenture Holders' Committee v. DASA Corporation, __ F.2d __, __ (2d Cir. 1977) (slip op. at 5232-3, 8-11-77).

This leaves the subject of telephones where it has been since the preliminary injunction issued last October. Respondents have not appealed that order, nor have they offered new evidence or arguments to change it. Petitioners' arguments for additional relief have been overruled. It follows that the court should and will embody the terms of the preliminary injunction in the final decree.

Several issues concerning mail were disposed of by summary judgment last January, when the court enjoined the reading of outgoing mail, sustained respondents' practices on "legal mail" (from attorneys and courts), and restricted respondents' surveillance and scrutiny of other incoming mail. 428 F. Supp. at 342-344. Some residual problems remain with respect to legal mail and respondents' procedures for delivery and forwarding mail.

1. Legal mail.- In ruling on the summary judgment motions, the court held adequate respondents' practices safeguarding the confidentiality of legal mail - namely, their rules allowing opening (not reading of) such mail for contraband, but only in the recipient's presence. It has become evident, however, that there is less than rigorous enforcement of these restrictions; in repeated instances, too numerous to be allowable slips, letters of this nature are delivered to the inmates after having been opened outside their presence. The record makes it appropriate that the court's decree command adherence, subject to appropriate sanctions for violation, to the agency's own rules.

There is in this connection an unnecessary dispute about the scope of "legal mail" for present purposes. After the court's decision of January 19, 1977, the Bureau, on May 23, issued revised regulations advising inmates that all "Special Mail," suitably marked, would be handled with the restrictions

now approved and ordered for correspondence from attorneys and courts. "Special Mail," in addition to that from federal courts and attorneys, includes under the revision correspondence from "members of Congress, embassies or consulates, the U.S. Department of Justice, governors, State attorneys general, prosecuting attorneys, [and] state courts * * *."³³ No reason is suggested why the court's decree should be narrower. The decree will, in any event, be coterminous with the regulations.

2. Delayed Mail.- There are complaints that mail is unduly delayed after it reaches the institution before delivery to inmate addressees. This is perhaps a difficult, but not an impossible, contention to prove, as reflected in court orders requiring prompt deliveries, Mitchell v. Untreiner, 421 F. Supp. 886, 902 (N.D. Fla. 1976); Collins v. Schoonfield, Civ. No. 71-500-K (D. Md. July 27, 1972); Boldings v. Jennings, No. 76-73C2, 3 Prison Law Rptr. 259, 260 (W.D. Wash. 1974); Lambert v. Skidmore, No C 2 74 135 (S.D. Ohio May 30, 1975). But there is no convincing proof of the charge in this case. There is evidence of mail delayed in the Christmas season, but this is familiar on both sides of the prison walls. The claim of delayed pickups of outgoing mail is no more solidly supported. Petitioners' complaints on these subjects are rejected.

3. Non-forwarding of mail.- When an inmate is transferred from MCC to another institution - often abruptly

as will be discussed - mail thereafter received is not forwarded, but returned to the sender. Acknowledging this, respondents insist upon their right to continue the practice. They say:

"Since there is no evidence indicating that inmates are unable to send change-of-address notices to the local Post Office station either before or after the transfer, there is no reason to impose that burden on the MCC." 34

Even if such cold niggardliness is not a characteristic note, one might have hoped for its omission. The court does not sit, of course, to enforce magnanimity in government. But this is a clear case where a callous and ungenerous position happens also to be unsupportable in law.

It is not to be doubted that the distinguished respondents in this case appreciate the fundamental human needs answered by the mails to people in confinement. See, e.g., if citation is needed, Taylor v. Sterrett, 532 F.2d 462, 481 (5th Cir. 1976). Yet the bureaucratic indifference exercised in respondents' names brushes past simple decency for no good reason whatever. In the nature of the situation, inmates' mail will be returned to sender, not forwarded, when they have had no chance at all to redirect it for themselves by filing change-of-address notices. This is so, obviously, because transfers are sudden, often occurring after the sending, but before receipt, of the letter MCC finds itself unwilling to forward. Even where this is not so, the "burden" that worries respondents is inconsequential. The piece of mail

must be handled in any case - whether to be returned or sent to its addressee. The extra trouble of digging out and writing a forwarding address - a beneficence commonly performed by irate former landlords, jaundiced ex-employers, and others not looked to for public examples of caring - is of no meaningful weight in this setting. Finally, as respondents must know as well as anyone, they deal with a group in which literacy, attention to workaday detail, and knowledge of agency procedures may be less prevalent than it is in the population at large. If an inmate neglects (or does not know about) a change-of-address notice, MCC personnel might find ready means to supply the omission rather than fight for the right to return the mail to its sender. The court will not compel, though it presumes to suggest, this procedure.

The court holds, however, in any event, that the refusal to forward mail is a species of obstinate neglect of vital needs that qualifies classically as arbitrary and capricious official conduct, totally unsupportable by any reason that can be deemed sound or sufficient in the circumstances. The court will order the relief petitioners seek in this respect.

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F. SEARCHES

Two areas of dispute remain under this heading following the court's earlier decision, on summary judgment, 428 F. Supp. at 341-43, requiring that petitioners be given receipts for things seized from their quarters: (1) the propriety of strip searches as routine procedures following visits, and (2) the practice of excluding inmates when their sleeping areas and possessions are being searched. On both subjects, the court concludes, petitioners are entitled to some relief.

The broad principles governing these questions as of now may be briefly summarized. It seems evident that people in confinement enjoy at least some of the Fourth Amendment's protection "against unreasonable searches and seizures * * *." Bonner v. Coughlin, 517 F.2d 1311, 1317 (7th Cir. 1975) (Stevens, J.); Hodges v. Klein, 412 F. Supp. 896, 899-903 (D.N.J. 1976), collecting cases. Undoubtedly the protection "does not rise to that possessed by the unincarcerated members of society." Bonner v. Coughlin, supra, at 1317. But there are points, which the court finds to have been transgressed in this case, beyond which searches and seizures, even in a jail, must be condemned as constitutionally "unreasonable."

There are also due process boundaries set by "the community's sense of fair play and decency." Rochin v. California, 342 U.S. 165, 173 (1951). These

limits, too, are exceeded by the forms of strip search respondents employ.

1. Strip searches. - Under the questioned practice, every inmate - including pre-trial detainees held on charges ranging from mail embezzlement through stock fraud to narcotics dealings and bank robbery - undergoes a strip search upon returning to his quarters from any visit. In the presence of a corrections officer, the male inmate must remove his clothes, display his armpits, open his mouth, raise his genitals, display the bottoms of his feet, and spread his buttocks for visual anal inspection. Female inmates must follow a similar procedure, including a visual vaginal inspection. The testimony of inmates and experts alike reveals qualities in this experience that a court might come close to noticing judicially. The stripping is unpleasant, embarrassing, and humiliating. ~~_____~~

~~_____~~ The spreading and lifting of genitalia and the bending over to spread buttocks for anal inspection plunge the reaction to a level of deep degradation and submission. The postures petitioners are compelled to assume are calculated to trigger, in the officer and inmate respectively, feelings of sadism, terror, and incipient masochism that no one alive could have failed to predict. In the MCC, as elsewhere in such situations, male correction officers have been incited by the temptation to indulge the sense of a cheap machismo. There have been insultingly

suggestive remarks and banal but terrifying expressions of aggression like those of guards threatening in the time of nakedness to "put [a] foot up [the] ass" or merely to "kick the ass" of the humbled prisoner. The court credits the testimony of inmates who have found this so high a price as to forego visits or to feel after a visit that it was not worthwhile.

A psychiatrist called by respondents acknowledged that the strip search experience "is something that may not be wished," but went on to say that it is part of the reality of the circumstance in which it is not only appropriate from a standpoint of the institution's security, but is something to which people can adapt and recognize and I would doubt that anybody was so severely upset by such an experience that they would require psychiatric care or, again, that there is a question of after effects of it." Accepting the psychiatric observations, if dubitante, but not those on security, the court holds that constitutional injury may occur short of emotional trauma leaving scars or requiring treatment.

The asserted justification for this grisly procedure is, of course, the claim that it is needed for security against the smuggling of weapons, drugs, and other contraband. As for specific experience, one female officer once espied in a prisoner's vagina a red balloon containing heroin. Another testified to discovering drugs in an inmate's

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shoes. There was no evidence that anal inspections had ever revealed any attempts at smuggling, and this is no surprise. The evidence is clear and uncontradicted that a person bent upon this mode of transport could insert an object beyond the anal sphincter and render it invisible until its retrieval at some private moment later on.

But it must be added that the case for respondents is not ended with their slender proof of actual episodes when smuggling attempts were thwarted in strip searches. Defendant Warden and Bureau Director, among others, testified to a belief, which has a measure of plausibility, that the prospect of the strip search may serve as a deterrent to people planning to secrete and import forbidden things. The fact that the judgment is neither quantifiable nor flatly demonstrable does not deprive it of the authority with which respondents' experience and expertise must be deemed to invest it. Giving full weight to this factor, the court finds that it cannot justify the more extreme and offensive aspects of the strip search.

The test of reasonableness requires attention to the total setting. It is significant, therefore, that the inmates and their visitors are in full view during the visits and fully clad. The secreting of objects in rectal or genital areas becomes in this situation an imposing challenge to nerves and agility. The challenge, it must be expected, is surmountable by some, but likely in itself to deter many or most.

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especially pre-trial detainees who may be hoping to vindicate their presumed innocence and may be hesitant to accomplish a new crime in the very arms of the law. For the probably slim minority who might attempt to smuggle things in their bodies, there remain search techniques short of the loathesome practice now in force. The paramount worry is, or ought to be, over possible importation of weapons or other dangerous instruments. These are discoverable by metal detecting devices and, if necessary, other equipment employed for airline security and other purposes.

There remain other things, mainly narcotics, that might still be secreted and evade detection. How serious this problem may be - and how far controllable by measures like the usual searches and urine tests - it is not possible to say with confidence. What we can know is that the goal of absolute security is unattainable, and we must assume that some contraband will continue to make its way into jails and prisons, as it always has - whether through visitors, guards, lawyers, clergymen, or otherwise. The court does not propose to treat lightly the security concerns of respondents. In today's resolution of the strip search problem, respondents will be permitted to go as far as may be permitted by the demands of reasonableness in the Fourth Amendment and the claims of decency in the Fifth.

The court concludes, upon the record and the

developing precedents, that respondents must cease the routine requirements of anal and genital inspections after visits. These affronts, repulsive in the most evident respects, are not warranted by the suspicions upon which respondents have proceeded. In all the circumstances, the demands of security are amply satisfied if inmates are required to disrobe, to have their clothing subjected to inspection, and to present open hands and arms to demonstrate the absence of concealed objects. Even this much the court allows with grave reluctance, inviting reconsideration by wiser judges or respondents themselves in the more mature wisdom of future times. For now, however, sensitive to the primary authority of respondents for the protection of life and property, the court will forbid only the extreme measures of indignity now practiced. These, it is held, are unreasonable and "shocking," and thus forbidden by the Fourth and Fifth Amendments.

Also left to respondents by this ruling is the possibility of visually inspecting anal or genital areas upon a specific and particular demonstration of probable cause for doing so. In the rare cases where this may happen, the details of the probable cause must be recorded in writing, upon sworn statements of first-hand knowledge. The record will include the reasons, circumstances, and results of the search. A copy will be given to the inmate and preserved for later reference if and when a particular search or the practice in this regard comes again to be questioned. Cf. ABA Standards §6.6(f)(iii).

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2. Room searches.-- The living areas of the MCC are searched at irregular intervals, and the searches are unannounced. The searches are of two types: formal unit shakedowns and informal searches of individual rooms (which are the more frequent type). For formal shakedowns, a team of guards clears the inmates from a particular portion of a living unit and searches each room. The inmates are not permitted to watch the searches. Correctional officers have discretion to allow an inmate to watch the informal search of his individual room. It is unclear how or how often this discretion is exercised.

Petitioners protest against the practice of barring them from positions where they may observe the searches of their rooms and possessions. The complaint rests upon some elementary concerns.. In the MCC, as frequently happens elsewhere in the conduct of official searches, the few possessions of inmates are not treated with tenderness. Officers rummaging through clothing, papers, drawers, and other things, supposedly obliged to be neat, frequently aren't. Possessions are left in disarray. It is charged - but the court finds it unnecessary (indeed, impossible on the present record) to decide one way or another - that possessions are stolen by searching officers. This complaint had special point and urgency in the past, when respondents gave no receipts for seized property, a practice enjoined by the court on January 5, 1977, 428 F.Supp. at 342. The suspicion or belief remains a vital source of tension and hostility.

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Allowing inmates to observe from a reasonable distance the searching of their rooms would go far to eliminate these grounds of complaint. An officer viewed by the owner is more likely to fulfill the stated duty to put things back as they were. The claim of stolen property is far less likely to be made, the grounds for suspicion, or ostensible suspicion, being largely obviated. Having one's things searched is no pleasure in the best of circumstances. Being denied the right even to watch the invasion is a blunt oppression.

Respondents justify the exclusion on two grounds. As phrased by defendant Warden Taylor,

"the [first] reason * * * is to prevent inmates from distracting officers who are doing the searching and moving contraband from one area to another ahead of the search party. * * *

"The other consideration is that during searches there sometimes arises a situation in which the inmate becomes argumentative and conflicts do develop between staff and inmates over the search."

These grounds are thought and urged by the Warden to override his view, expressed in the same response, that "it is important to preserve [and respect] as much as possible * * * the privacy of the inmate."

The court concludes that, at least with respect to pre-trial detainees, the Warden's appraisal of the competing interests cannot be sustained. The presumptively innocent prisoner's acknowledged interest in privacy and, it may be added, in minimal dignity, may be overridden only upon a demonstration of compelling necessity. Detainees of the Brooklyn House of Detention v. Malcolm, 520 F.2d 392, 397 (2d Cir. 1975). The undocumented worries of respondents have neither the quality nor the substantiality to supply the demonstration. The ingenuity of experienced jailers is sufficient, surely, to prevent the successful movement of contraband from hand to hand while the officers are on the spot.³⁶ As to the threat of arguments and conflicts, this is always present, and subject to stern control, in the jailhouse. Prisoners may become disagreeable, or even violent, anywhere - at the meal table, at play, in the TV room. When that happens, authority must be asserted. If necessary, the prisoner must be moved away from the place of disturbance. But the possibility of disturbing behavior does not justify exclusion from the place where it may happen - from the dining area, TV room, etc. At least until or unless respondents can show a pattern of violence or other disruptions taxing the powers of control - a kind of showing not remotely approached by the Warden's expressions - the security argument for banishing inmates while their rooms are searched must be rejected.

In so holding, this court follows the high authority of Judge Lasker in Giampetruzzi v. Malcolm, 406 F. Supp. 836, 844-45 (S.D.N.Y. 1975).³⁷ Following that precedent with respect to pre-trial detainees, this court refrains from extending it to convicted inmates. The wisdom of removing any prisoner from his quarters during a search may well be questioned. If, as this court now holds, the practice is to be forbidden for pre-trial detainees, respondents may wish to reconsider it for others. Nevertheless, confining itself to the sharp limits of its powers, the court is unable to conclude that the procedure is "unreasonable" in Fourth Amendment terms for convicted inmates. For them, the asserted necessities need not be "compelling." While the Warden's explanation of the position is not overpowering, it is certainly not weightless. For the treatment of sentenced inmates, it passes the constitutional test.

A 2775
G. PERSONAL PROPERTY

In a society which holds property more sacred than perhaps it should, a person's identity and self-respect are deeply entwined with material possessions. We are accustomed to prize as basic necessities an array of balms, toys, and physical amenities that people in a simpler age knew or cared nothing about. It becomes a severe discomfort, to say nothing of self-respect and security, to do without a watch, accustomed gadgets, cosmetics, minor items for personal adornment, things to eat, drink, smoke, and chew without regard to nutrition or necessity in the sense of survival. The strong dependence upon material things as assurances that we exist gives rise to one of the deepest miseries of incarceration - the deprivation of familiar possessions ranging from the dwelling place to its furnishings to automobiles, a wardrobe, however modest, and other paraphernalia supporting life in freedom for most of us.

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This aspect of incarceration is notably severe in the MCC. In contrast with its early billing as a showplace, conformably to the habitual stance of the Federal Bureau as a leader of penal enlightenment, the MCC's rules and practices governing possessions allowed to inmates have been markedly more restrictive than those in numerous state facilities, including a number of highly secure prisons. Petitioners have attacked these rules and practices. The attacks have in some respects been found to be well grounded.

1. Confiscating property.- When this case began respondents claimed and exercised the powers to search an inmate's cell, barring any opportunity for the occupant to see what was happening; to seize property upon an officer's deciding it was "contraband;" to give no receipt or other account of what was seized; and to keep the property permanently, ostensibly for "The Government" but with no way in fact for anyone ever to know or question what had actually happened to it.³⁹

This regime of absolute and unquestionable tyranny was not softened by a sweeping definition of "contraband," which purported to embrace "any item or article inside an institution that was not issued by the institution, purchased in the commissary, purchased through approved channels or approved for issue by an authorized staff member."⁴⁰

On a motion for summary judgment, the court ordered that respondents give receipts for seized property, 428 F. Supp. at 342, a step that might have led respondents to supply some explanation for the seizure and some opportunity to contest it. Respondents continue to insist, however, that there will be and need be no procedure by which an inmate can question the taking of property on an officer's pronouncement that it is "contraband." Petitioners are entitled to have this stance corrected, for it is, in the most severe and unrelieved terms, an assertion of power to take property without due process of law.

It should not be necessary, though it evidently is, to affirm in 1977 that federal prisoners, and most obviously confined people who have been convicted of nothing, are protected by the Fifth Amendment against takings of things in their possession without at least some chance to dispute the action and to justify the possession. Weddle v. Director, Patuxent Institution, 405 U.S. 1036 (1972), vacating and remanding 435 F.2d 342 (4th Cir. 1970), for reconsideration in light of Lynch v. Household Finance Corp., 405 U.S. 538 (1972); Seal v. Parratt, 548 F. 2d 753, 757, 759 (8th Cir. 1977), cert. filed No. 76-1339 (March 28, 1977); Kimbrough v. O'Neil, 523 F.2d 1057 (7th Cir. 1975), aff'd on reh. en banc, 545 F.2d 1059 (1976); Russell v. Bodner, 489 F.2d 280 (3d Cir. 1973). Robustly opposing that proposition, respondents sound some chilling notes. There is no need for any opportunity to contest the confiscation, they say, because:

"[i]f the confiscation of a particular item is improper, the inmate has an adequate remedy in a common law action for reverter or conversion as well as a constitutional action for damages under the Fifth Amendment."⁴¹

If that were an answer, every official, high or low, could employ it as justification for lawless confiscations. The assertion is, moreover, uniquely astonishing when made by an agency that should normally be heard to insist upon exhaustion of its own administrative remedies before complainants haul it into court. Enough has been said to indicate why the court must regret and reject the proposal

of high federal officers that their conduct be tested in state courts by the quiddities of the old common-law writs.

This court holds that respondents must afford an inmate some method of contesting a confiscation. The procedure need not be elaborate, certainly nothing like a case for reverter or conversion. In most situations, there will probably be no need for any semblance of a hearing. But procedures must exist providing for at least the following:

- (a) A brief statement to the inmate of the asserted justification for the seizure.
- (b) A notice of the right to respond in some reasonably simple and convenient fashion and assert grounds, if any, why the seizure is claimed to have been unwarranted.
- (c) Some suitable opportunity to meet and answer controverted evidence thought to warrant confiscation.
- (d) A decision, with reasons, however brief.

Mindful here and throughout that it is respondents who are primarily responsible for the MCC's governance, the court will not now prescribe the procedures in detail. The decree will require that they serve and file new procedures conforming to the directives outlined above, on the 90-day timetable, with 15 days for objections, prescribed earlier.

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2. Packages. - MCC inmates are forbidden to import or receive packages of food or things like watches, radios, and sweat shirts, except for one Christmas package, though items of this nature may be purchased from the commissary. This restriction is sought to be justified on the present record by "dire predictions" which are not only unsupported by evidence, cf. Goodwin v. Oswald, 462 F.2d 1237, 1244-45 (2d Cir. 1972); Rhem v. Malcolm, 371 F. Supp. 594, 626 (S.D.N.Y.), aff'd and remanded, 507 F.2d 333 (2d Cir. 1974), but in several instances belied by experience or by respondents' own self-contradictions.

The record herein and the law books reveal repeated instances where prisons, often housing convicted inmates under close security, allow (or have been ordered to allow) the receipt of packages and the ownership of personal property more extensive than the MCC permits. See, e.g., Feely v. Sampson, Civ. Action No. 75-171 (D.N.H. Sept. 14, 1976); Giampetruzzi v. Malcolm, 406 F. Supp. 836, 842 (S.D.N.Y. 1975); Miller v. Carson, 401 F. Supp. 835, 840 (M.D. Fla. 1975); Inmates of Suffolk County Jail v. Eisenstadt, 360 F.Supp. 676, 693 (D. Mass. 1973), aff'd, 494 F.2d 1196 (1st Cir.), cert. denied sub nom. Hall v. Inmates of Suffolk County Jail, 419 U.S. 977 (1974); Moore v. Janing, Civ. No. 72 0 223 (D.Nev. March 8, 1973); Bishop v. Lamb, IV-1864 (D. Nev. Aug. 27, 1973). So, for example, inmates in New York State institutions may receive a 35-pound package of food each month, in addition to clothing and magazines. New York State prisoners may also possess electric razors,

typewriters, and stationery.

The evidence of what is done elsewhere is not controlling upon respondents. But it does call upon these administrative experts to make some reasoned showing, surely for unconvicted people, as to why there must be deprivations at the MCC so much harsher than deemed necessary in other institutions. Procunier v. Martinez, 416 U.S. 396, 414 n.14 (1974); Moskowitz v. Wilkinson, 432 F. Supp. 947, 951 (D. Conn. 1977). Respondents have made no such showing. Their restrictive rules in this light must be held to be arbitrary and capricious, not merely as to pre-trial detainees, but as to all those in the Center.

The compelling drive toward this conclusion becomes more palpable against the justifications respondents offer. They invoke, as everywhere, the claims of security: weapons, drugs, and whatnot will enter in packages. But there has been not even an attempt to show why protective measures, familiar in use at other institutions, could not serve here.

Then it is urged that allowing personal property in jail will "provide the materials for buying favors among inmates or between inmates and staff, for gambling activities, and for the use of strong-arm tactics and other similar types of activities which are well-known and of real concern to correctional administrators * * *." 42 Similarly, respondents profess to worry about thefts, conflicts, and "aggravating the factor of economic inequality * * *." 43

These are not more solid than other ghosts, and respondents themselves help to prove it. The commissary offers items of substantial cost - e.g., \$18 sneakers and \$27 radios - serviceable for favors, for demonstrated inequalities, and other possibly baleful uses.⁴⁴ Apart from that, we all are, or ought to be, aware enough of past and present concentration camps to know that crumbs and scraps are enough to evoke propensities toward bestiality and mutual exploitation.⁴⁵ Petitioners may have allowed themselves to soar a little when they attack respondents' "pseudo-socialist principles."⁴⁶ The fact remains that it only demands a pseudo-equality to insist that all must be deprived arbitrarily, however much greater the deprivations of some than of others.

Respondents also urge that packages will bring "sanitation and storage problems * * *."⁴⁷ Again, this is inconsistent with their own purveying of food that may attract vermin and require storage. Moreover, if packages are to be allowed, as they will be by this court's order, there is no doubt about respondents' authority to control volume, the nature and management of food, and other factors of genuine concern for decent housekeeping.

Finally, some note must be taken of the argument that for inmates serving sentences "the restrictions on the possession of personal property also serve the legitimate purpose of punishment."⁴⁸ This is a curious argument indeed. Most of us in the federal law business associate respondent Director

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Carlson with a good deal of penological wisdom extending well beyond, but surely including, the maxim that people are sent to prison as punishment not for punishment. A fortiori, the acknowledgment that defendants awaiting trial, and not lawfully subject to any punishment, are being punished in this way is a substantial confession of error, whether calculated or not. And it is, furthermore, a declaration that jailers are determining forms of punishment with no suggestion that their statutory powers were meant to embrace that profound responsibility.

The court concludes, in sum, that respondents have failed to offer any but arbitrary and unacceptable grounds for their stringent limitations upon personal possessions. Upon the record before the court, it seems clear that inmates should be free to retain or receive at least items of the kind available on order from the commissary. Once again, the precise details are primarily for respondents to formulate. As in the case of regulations concerning confiscations, and on the same terms and timetable, respondents will prepare and submit suitable regulations governing this subject.

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H. CLOTHING

Inmates at the MCC are not permitted to wear their own clothing except for sweat clothes and footgear on sale from the commissary. At the Receiving and Discharge Unit, they are issued underwear and jumpsuits. The jumpsuits are brightly colored -- red, orange, yellow, and blue. The suits frequently do not fit. In fact, the supposed flexibility of jumpsuits -- in size and interchangeability between men and women -- is one reason the respondents give for using these uniforms. Inmates complain that the suits are often wrinkled and sometimes torn. It is awkward to use the toilet while wearing them.

Inmates testified that the uniforms are "degrading," "dehumanizing," "depersonalizing," "an embarrassment." Some found them most distressing during visits, feeling embarrassed to have their families and friends see them in what they referred to as "clown suits," "monkey suits," or "Santa Claus suits." Petitioners' experts testified that requiring inmates to wear uniforms such as these is psychologically destructive, a "negation of their individuality." On the other hand, an expert called by respondents testified he wore one of the jumpsuits for 10 hours and did not find it degrading.

It is easy to be skeptical, even cynical, about the testimony pro and con concerning the psychological impact of MCC jumpsuits. For a litigious inmate, the issue of "degradation"

or embarrassment may roll trippingly off the tongue. For a visiting expert, headed for freedom and privacy after the day's work, it is no feat to feel at ease in the very temporary garb assumed for an unreal experiment.

It has proved useful, therefore, to have the benefit of several periods of direct observation. The evidence of the court's eyes has tended to sustain petitioners' contentions. The jumpsuits are in fact garish. The MCC's personnel in charge of fitting will win no awards. The inmates are often discovered in uniforms several sizes too large, looking funny in a way likely to amuse only others. There is every reason for the court to credit the reports of discomfort, embarrassment, and felt stigmatization, not least in the reflection seen in the eyes of visiting family or friends.

Without much defending the uniforms on sartorial grounds, respondents urge the necessity for this attire to distinguish inmates from others and thus promote the jail's security. The argument is unsupported by substantial evidence or plausible reason. Security in the MCC is elaborate; there are possibilities of escape, but they are almost negligible. Most inmates are confined to the unit for nearly 24 hours a day. While this may change, as the court hopes, there remains an impenetrable outer perimeter, defended by TV screens, double sets of doors, a closely guarded corridor, and extensive communications devices. Nobody enters without the invisible ink stamp. Nobody leaves without displaying it.

In the face of these facts, the requirement of uniforms rests upon foundations so tenuous as to be arbitrary and capricious. For pre-trial detainees, the best of uniforms is a dubious restriction. There is wide acceptance of the U.N. Standard stating: "An untried prisoner shall be allowed to wear his own clothing if it is clean and suitable." U.N. Standard Minimum Rules for the Treatment of Prisoners, Rule 88(1). Whether or not the Federal Bureau can manage to attain that standard, endorsed by many nations much less wealthy, it cannot justify compelled dress in a costume understandably experienced as humiliating in addition to its qualities of physical discomfort. As for sentenced prisoners, it is by now a matter of minimum decency that prisoners should, subject to security requirements, be "entitled to choose any * * * clothing they wish," ABA Standards § 6.7, or at least, where uniforms are required, be given clothing which "shall in no manner be degrading or humiliating." U.N. Standards, supra, Rule 17(1).

The practice of taking inmates' underwear and replacing it with government issue, often used, is altogether indefensible, and is not noticeably defended.

Upon the findings and conclusions thus outlined, the court will order as follows with respect to clothing:

- (a) Pre-trial detainees will be permitted to wear their own clothing unless they volunteer to wear uniforms issued by the MCC. Accord:

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Forts v. Malcolm, 426 F.Supp. 464, 468

(S.D.N.Y. 1977).

- (b) Uniforms for men shall consist of shirts, slacks, and other conventional items.
Uniforms for women shall consist of
(i) dresses, (ii) blouses with skirts or slacks, or (iii) other items of standard apparel.
- (c) Sentenced inmates will either be permitted to wear their own clothing or, unless they volunteer to wear one of the existing supply of jumpsuits, will be issued uniforms of the kind prescribed in "b," supra.
- (d) Issued clothing will fit the wearer with reasonable accuracy.
- (e) Inmates may wear their own undergarments or be issued new ones.

These provisions, given the limits of the court's expertise in matters of dress, are subject to reconsideration and modification upon due notice and hearing.

Menus at the MCC are organized in 30-day cycles.

The meals are prepared in the main kitchen up to a day in advance and refrigerated. At meal times, the trays are sent up to the living units, where they are reheated in microwave ovens.

The meals are nutritionally adequate. In quantity, variety, and palatability, they compare not unfavorably with the food produced in other large institutional kitchens. Respondents, with certain exceptions to be noted below, take suitable pains with this basic aspect of life in or out of confinement.

Petitioners have, however, pressed a list of complaints about food. They assail the cooking and heating procedures; they want meals more wholesome and attractive; they demand more attention to the varieties of individual tastes; and they urge the need for more suitable personnel, including outside civilians to replace some or all of the inmates who work in this aspect of the MCC's operations. Having heard the evidence and observed more than once the preparation and service of meals, the court rejects all of these demands as unfounded both in fact and in law.

One complaint, however, relating to sanitation, will be sustained. Respondents have been notably and persistently lax in allowing inmates to cook and serve food with luxuriant hair uncovered and bare hands. There is no excuse for this, and respondents offer none. The laxity has been open, notorious, and almost entirely unrelieved. Respondents have arbitrarily and inexcusably neglected their duty in this respect. They will be ordered to make and enforce appropriate regulations.

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J. DISCIPLINE

The amended petition in this case attacked numerous aspects of respondents' disciplinary procedures. Virtually all of these charges were dismissed at the end of petitioners' case-in-chief on the authority of Wolff v. McDonnell, 418 U.S. 539 (1974). The only issues remaining concern the manner in which "administrative detention" is imposed at the MCC and the conditions under which administrative detention and disciplinary segregation are carried out.

1. Administrative detention. - Respondents' policies with respect to inmate discipline are set forth in MCC Policy Statement NY7400.5D (4-5-76). The Policy Statement defines "Administrative Detention" as

"the status of confinement which results in a loss of some privileges which the inmate would have if assigned to the general population. Generally a person placed in Administrative Detention will be locked in his or her own room on the unit where he or she is normally assigned. Persons assigned to open dormitories will have to be transferred from their units to 9-South [the maximum security unit] when it is determined that Administrative Detention is required." 11a 49

The occasions for administrative detention are defined as follows:

"An inmate may be placed in Administrative Detention when his attitude and conduct indicate that his continued presence in the general population poses a serious threat to life, property, himself, staff, other inmates or to the security of the institution, and when the inmate:

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- "(1) Is pending a hearing for violation of institution rules or regulations;
- "(2) Is pending an investigation of a violation of institution rules or regulations;
- "(3) Is pending investigation or trial for a criminal act;
- "(4) Requests admission to Administrative Detention for his own protection or the staff determines that admission to or continuation in Administrative Detention is necessary for the inmate's own protection.
- "(5) Is pending transfer or is in holdover status during transfer; or
- "(6) Is pending classification or the gathering of information on the nature of an individual's offense, bail and prior record." ¶4(a).

The Policy Statement further provides that administrative detention may be ordered "by Correctional Supervisors, shift supervisors, or members of an inmate's unit management team (Unit Manager, Correctional Counselor, Case Manager). The Correctional Supervisor of the Watch must be notified immediately when an inmate is placed in Administrative Detention." ¶11(a)(1).

Under Bureau-wide "minimum standards," an inmate charged with misbehavior must be given "a written copy of the charges against him within 24 hours of the infraction," and a hearing must be held within 48 hours (excluding weekends and holidays) of the incident. ¶8(a),(b). The unit management team must "formally review the status of each inmate who spends seven (7) continuous days in Administrative Detention and thereafter

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such cases will be reviewed on the record each week and will be formally reviewed at least every thirty (30) days." §11(a)(2).

Petitioners charge, and the court finds, that respondents have not complied fully with their own policies concerning the imposition of administrative detention. One inmate was placed in administrative detention (for "malingering") for a period of ten days before a hearing was held, at which hearing he was acquitted of the charge. This same inmate was on another occasion placed in administrative detention pending hearing on a charge of "attempted escape." The hearing did not take place for approximately eight days after the incident (during which period the inmate was locked in), and then the inmate was acquitted.

Another inmate was placed in administrative detention for four days on a charge of possessing a marijuana cigarette, after which he was released without a hearing. Another spent three or four days in detention without a hearing for "unauthorized use of the telephone." The Associate Warden ordered a female inmate locked in because of her "negative attitude" some twelve hours after an incident on the women's unit. She was released four hours later.

At an earlier stage in the case, this court ordered the release of an inmate who had been held for 30 days in administrative detention "for his protection" without his consent.

A 2791

The instances just reviewed involved disregard of the agency's own standards governing preferment of charges, the grounds for detention in a locked cell, and the appropriate speed for deciding charges on which such detention is predicated. However, the few cases are not enough to constitute a pattern or practice. And the affected individuals are not seeking specific relief for themselves. Nevertheless, it bears repetition that the agency is bound by its own regulations. The court and all affected persons are entitled to expect that those in charge, especially upon notice that violations have occurred, will take suitable measures to enforce compliance. These reminders, the court concludes, are enough on this subject for the time being. It is to be expected that respondents will scrutinize with care and duly implement their controlling policies limiting administrative detention to cases of genuine necessity, limiting the categories of officials who may impose it, requiring prompt notice of charges, and holding prompt hearings for inmates subjected to this form of harsh treatment.

2. Exercise during confinement.- The Policy Statement quoted above sets forth in detail the conditions under which inmates are to be confined either in administrative detention or disciplinary segregation.

It says, ¶11(a)(3):

"Conditions of Administrative Detention. The basic level of conditions as described below for Disciplinary Segregation will also apply to Administrative Detention. To the extent possible, inmates housed in Administrative Detention will be afforded the same general

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privileges given to inmates in general population as is consistent with existing resources available and the security needs of the unit. Unless there are compelling reasons to the contrary, commissary privileges, reasonable amounts of personal property, and exercise periods exceeding those provided for inmates housed in Disciplinary Segregation will be provided. Visiting and correspondence privileges of the general population will be given inmates in Administrative Detention."

This should mean, inter alia, that people in administrative detention will normally have a daily hour of outdoor exercise plus the kinds of physical workouts possible with equipment in the units. On the other hand, inmates in disciplinary segregation are said to be entitled to at least two one-hour or four half-hour periods of exercise per week. ¶11(c)(6).

Despite what is written, the record shows that inmates in administrative detention frequently receive no more, and sometimes have less, exercise time than is required for those in segregation. While this is another case of reminding respondents to do as their own rules require, the reminder is appropriately to be embodied in the decree. For the Policy Statement, like the law more generally controlling, says that only "compelling reasons to the contrary" can justify loss of "existing privileges" for people in administrative detention. It is suitable, therefore, to specify that this parity will be observed unless "compelling reasons," reported to the inmate in writing, are deemed to justify a departure.⁵⁰

3. Religious observances.- Inmates in

segregation may be denied permission to attend religious services. They are, however, permitted to receive visits from a clergyman of their faith. It is clear that this kind of restriction may lawfully be imposed in the exercise of "a reasonable judgment" appraising the individual inmate against the security and safety needs of the institution. LaReau v. McDougall, 473 F.2d 974, 979 (2d Cir. 1972), cert. denied, 414 U.S. 878 (1973). There is no evidence in the record that respondents are administering this discretion in an arbitrary fashion, or, in fact, that they have ever exercised it at all. The petitioners have proved no valid grievance on this subject.

4. Women's lock-in.- The women's unit on 5-South

of the MCC consists of single rooms which have sinks but no toilets. These rooms were originally designed for people expected to be on work-release, in a kind of "halfway house" status; they were never intended as places for locked detention. The women are not locked in at night, as are the men, and may use the toilets located at the end of each corridor. When a woman is placed in segregation, however, or the entire unit is locked in for some reason, the inmates are dependent upon the guards to check periodically whether any of them need to use the toilet.

The guards are of varying conscientiousness with respect to this duty. Inmates have been locked in for many hours without being released to use the toilet. It appears

that sinks have done service as toilet bowls when an extended banging on the door failed to attract a guard. Apart from this kind of unpleasantness, it falls today below an acceptable level of humaneness to confine a prisoner of any sex where he or she must solicit freedom to use a toilet.

The cases in which courts have considered and condemned locked cells without toilet facilities have usually involved generally barbarous conditions (of filth, vermin, cramped quarters, etc.) markedly inferior to those in the MCC. See, e.g., Wright v. McMann, 460 F. 2d 126 (2d Cir. 1972), cert. denied, 409 U.S. 885 (1972); Kimbrough v. McNeil, 523 F.2d 1057 (7th Cir. 1975); Taylor v. Sterrett, 344 F. Supp. 411 (N.D. Tex. 1972), aff'd in part, rev. in part, 499 F.2d 367 (5th Cir. 1974), cert. denied, 420 U.S. 983, reh. den., 421 U.S. 971 (1975). It is a small and justified step from those decisions, however, to hold unacceptable for locked confinement even an otherwise decent cell that lacks a toilet. This court so holds. For sentenced prisoners, the condition must be barred today as cruel and unusual punishment. For pre-trial detainees, it denies due process. For both, the court's decree will forbid the further use of cells without toilets for lock-ins.

A 2795
K. STAFF

Petitioners claim that the staffing patterns at the MCC are constitutionally unacceptable. Specifically, they contend that the institution is understaffed, thereby endangering inmates; and, further, that a "sex blind" policy of staff assignments improperly results in male staff on the women's unit, and vice versa.

1. Number of guards.- During the day and evening hours (until midnight), one correctional officer is assigned to each modular living unit on Floors 5, 7, 9, and 11.⁵¹ During the "morning watch" (midnight to 8:00 a.m.) one officer is assigned to an entire floor, i.e., two living units. The day and evening officers are responsible for a considerable list of duties in addition to supervising the unit: sick call, visiting, search, meals, and some other activities are among the responsibilities of this officer. Frequently, the officer must leave the unit to escort inmates. Petitioners contend that because of the number of functions this one officer must perform for the 48 inmates on the unit (60 in the dormitory under today's decision reducing the number from 120), he or she is unable to perform any of them efficiently, so that there are long delays in the delivery of service to the inmates and threats to their safety.

A 2796

From midnight to 8:a.m., the single guard must divide his time between the two units on each floor. On all except the women's and honor units, the inmates are locked into their rooms, which have no mechanism for attracting the guard's attention. Therefore, inmates needing the guard - because they are sick, for instance - must pound on the door until the guard hears them.

Respondents argue that the nature of the MCC renders it simpler and safer to guard than the average institution, and that the evidence shows that the "staff has not only fully performed its duties in a professional manner, but has contributed significantly to the relaxed atmosphere of the institution."⁵²

Courts have not hesitated to require penal institutions to assign and/or hire more staff when it appeared that understaffing endangered the well-being of the inmates. See, e.g., Jones v. Wittenberg, 330 F. Supp. 707, 715 (N.D. Ohio 1971), aff'd sub nom. Jones v. Metzger, 456 F.2d 854 (6th Cir. 1972); Tyler v. Pereich, 74-40-C(2) (E.D. Mo. October 15, 1974); Incarcerated Men of Allen County v. Fair, Civ. No. C 72-188 (N.D. Ohio May 23, 1973); Alberti v. Sheriff of Harris County, 406 F. Supp. 649, 678 (S.D. Tex. 1975); Miller v. Carson, 401 F. Supp. 835, 895-97 (M.D. Fla. 1975); Hamilton v. Landrieu, 351 F.Supp. 549, 551-52 (E.D. La. 1972); Jackson v. Hendrick, 1971 No. 2437 (Pa. Common Pleas April 7, 1972); Sandoval v. James, No.C-72-2213 RFP (N.D. Cal. October 3, 1975); Joiner v. Pruitt, No. 475-166

(Lake Cy. Ind. Sup. Ct. February 21, 1975); Rhem v. Malcolm, 371 F.Supp. 594, 628 (S.D.N.Y.), modified 507 F.2d 333 (2d Cir. 1974); Hedrick v. Grant, Civil No. S-76-162 (E.D. Cal. November 13, 1976); Mitchell v. Unteiner, 421 F. Supp. 886, 901 (N.D. Fla. 1976). It remains clear, however, that the judgments of those who run the prisons carry great weight on questions of this sort, and that a powerful case must be made for substitution of judicial judgment.

In this light, the court is not convinced that the institution should be held to be understaffed. On the day shift, the unit officer is not actually alone; each unit has a staff of three to four persons (unit manager, correctional counselor, caseworker and/or secretary) who are in the living units a good part of the time. Petitioners have not shown that inmates are in any way jeopardized by the current staffing pattern for the 16 or so hours each day when they are not locked in. There is no evidence of violence, or threats of violence, which could be prevented by additional guards, or for which there is an urgent need to add guards. Cf. Miller v. Carson, supra; Incarcerated Men of Allen County, supra; Sandoval v. James, supra. It might be desirable on the unit, but petitioners have not demonstrated that the existing arrangement falls below a minimum enforceable by the court.

The question concerning the morning watch is closer. Inmate witnesses testified to the difficulty of attracting a guard's attention if one is needed at night.

A 2798

The solid cell doors and the lack of any call system by which guards can be alerted that an inmate needs them corroborate this testimony. While these assertions are not to be discounted, it is also true that no case was shown of any serious hurt or discomfort resulting from delay in raising a guard. The officer patrolling two units at night, when most of the inmates are asleep and locked in, has a relatively short distance to cover and a total of approximately 100 people to attend. The officer is expected to move about through the two units. The trip is not a long one. Unless the guard is asleep or indolent, a charge that has not been made, the tour through both units requires a very few minutes.

Upon the evidence in this record, the court cannot agree that two guards are, by any judicially enforceable standard, required for the performance of this assignment.

2. Assignment by sex.- Respondents hire and assign correctional personnel without regard to sex. Because of the practice of assigning one correctional officer to a unit, as discussed above, this policy frequently results in having a guard alone on a unit of inmates of the opposite sex. "Such staffing patterns," petitioners assert, "create the danger, recognized by the experts and inmates, of sexual relations, possibly without consent, between staff and inmates" as well as other "unwelcome intrusions" into inmates' privacy.⁵³

A 2799

The National Sheriffs Association declares as a standard that "[n]o male employee or visitor will enter the female quarters in the jail unless advance notice is given and escort service provided by a female jail supervisor. Where there are women in the jail population a female supervisor is required to be on duty." See National Sheriff's Association, A Handbook on Inmates' Legal Rights, Special Note at 3-4 (1974). Jail Standards (1977), proposed by The Nebraska State Bar Association Committee on Correctional Law and Practice, would forbid any "male facility personnel [to] enter [a] female inmate's living area, except in an emergency, without female facility personnel present." §5-(7) at 75. See the similar provision in Rule 53, United Nations Standard Minimum Rules for the Treatment of Prisoners (1975). The cited standards enforce strong traditions, certainly familiar to a substantial portion of today's judicial personnel. And there is case law to the same effect. See Portis v. Ward, 77 Civ. 1560 (S.D.N.Y. June 17, 1977); Hamilton v. Love, 328 F.Supp. 1182, 1195-96 (E.D. Ark. 1971); Hamilton v. Landrieu, 351 F. Supp. 549, 551 (E.D. La. 1972); Obadele v. McAdory, Civ. No. 72J-103(N) (S.D. Miss. June 19, 1973).

The subject lies, however, in a sector of the community's mores where the state of flux is uniquely notable. The value placed upon privacy, as against unwanted intrusions

A 2800

by members of the opposite sex, remains high. But the particular concern for female inviolability, and the corresponding neglect of comparable male interests, is already somewhat anachronistic. To be sure, biological and cultural factors continue to make it a fact that violent sexual assaults are almost exclusively forms of male aggression. On the other hand, it was common knowledge long before Catherine the Great, to say nothing of the more recent portrayal by Wertmuller in the film Seven Beauties, that females may employ positions of power for sexual exploitation of males. Rational prison management, like other forms of social control, should reckon with such realities.

In the last analysis, however, the overriding facts may well be the phenomena of uncertainty and change. And these counsel a tentative and gingerly approach by the judges. The community's standards are obviously prime concerns in deciding how to regulate contacts, relationships, and exercises of authority between people of opposite sexes. Judges are not by office or training specially qualified as the regulators.

Moreover, since rules and standards in this area affect selection and assignment of correctional employees, prescriptions in terms of sex confront powerful policies opposed to discriminations in employment based upon sex. Civil Rights Act of 1964, Title VII, 42 U.S.C.A. §2000e et seq.; Dothard v. Rawlinson, ___ U.S. ___ (1977).